REQUEST FOR PROPOSAL
FOR
ON CALL UNDERGROUND MECHANICAL UTILITIES MAINTENANCE CONTRACT

RFP NUMBER: **BC-21553-M**

ISSUED: **NOVEMBER 2, 2026**

DUE DATE: **DECEMBER 3, 2026, at 2:00 PM**

Prospective bidders/offerors are encouraged to regularly visit the University's Department of Procurement & Strategic Sourcing website, e-Maryland Marketplace Advantage (eMMA) to ensure receipt of any addenda and other updates related to this solicitation. The links to these resources are provided below:

- UMBC Bid Board - https://procurement.umbc.edu/bid-board/
- eMaryland Marketplace Advantage (eMMA) - https://emma.maryland.gov

ISSUING OFFICE
Department of Procurement & Strategic Sourcing
University of Maryland, Baltimore County
Administration Building, 7th Floor
1000 Hilltop Circle
Baltimore, MD 21250

MINORITY, WOMEN AND SMALL BUSINESSES ARE ENCOURGAGED TO RESPOND TO THIS SOLICITATION

Key Information Sheet & Solicitation Schedule

Request for Proposals Title:	On Call Underground Mechanical Utilities Maintenance Contract
Solicitation Number:	BC-21553-M
RFP Issue Date:	November 2, 2026
Procurement Officer:	Nneka Miller, CMPO, CPPB
Technical Proposal Due Date & Time: (Not a Public Bid Opening)	December 3, 2026, on or before 2:00 pm.
Technical Proposals are to be sent to:	Technic.jxhxaw8yit4tulsm@u.box.com
Price Proposals are to be sent to:	Instructions will be provided to shortlisted firms
Pre-Proposal Conference	November 10, 2026, at 1:00 pm. To access virtual meeting use this link Or by phone: (US) +1 202-860-2110 (toll) Access code: 2631 002 6538
Site Visit	N/A
Questions Due Date & Time:	November 17, 2026, no later than 2:00 pm
Oral Presentations	TBD
Minority Business Enterprise (MBE) Subcontracting Goal:	MBE goals will be assigned per task order
Contract Type:	Firm fixed price with Indefinite quantity
Term of Contract:	Two (2) year-based term period with six (6) one-year renewals, at the University's sole discretion

The University is committed to ensuring that persons with disabilities have equally effective opportunities to participate in and benefit from the University's programs and services. Persons who may require reasonable ADA accommodations should email the Issuing Office at nmiller7@umbc.edu at least five (5) days prior to any meeting scheduled in connection with this solicitation.

NOTICE TO BIDDER/OFFERORS

To help improve the quality of bid and proposal solicitations and to make our procurement process more responsive and "business friendly," we ask that you provide comments and suggestions regarding the enclosed solicitation. Please return your comments with your bid, proposal or "no bid," response, as the case may be. Thank you for your assistance.

Project No. **BC-21553-M**
Project Title: **ON CALL UNDERGROUND MECHANICAL UTILITIES MAINTENANCE CONTRACT**

If you have responded with a "no bid" please indicate the reasons below (check applicable boxes):

- ☐ Other commitments preclude our participation at this time.
- ☐ The subject of the solicitation is not something we normally provide.
- ☐ We are inexperienced in the work/commodities required.
- ☐ The specifications are either unclear or too restrictive (explain below).
- ☐ The scope of work is beyond our current capacity.
- ☐ Doing business with Maryland Government Agencies is simply too complicated (explain below).
- ☐ We cannot be competitive (explain below).
- ☐ Time allotted for completion of the bid/proposal response is insufficient.
- ☐ Start-up time is insufficient.
- ☐ Bonding/insurance requirements are prohibitive (explain below).
- ☐ MBE requirements (explain below).
- ☐ Bid/Proposal requirements (other than specifications or scope) are unreasonable or too risky (explain below)
- ☐ Prior experience with University contracts were not profitable or otherwise unsatisfactory (explain below).
- ☐ Payment schedule too slow.
- ☐ Other:_____

Explanation:_____

_____

_____

If you have submitted a bid or proposal, but wish to offer suggestions or express concerns, please use the remarks section below:

Remarks:_____

_____

_____

Bidder/Offeror Name: _____

Contact Person: _____

Signature: _____ Date:_____

Address: _____

Email: _____ Phone: _____

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SECTION I. SPECIFICATIONS/SCOPE OF WORK

A. BACKGROUND

Established in 1966, the University of Maryland, Baltimore County (UMBC) is one of twelve institutions that, along with two regional centers, constitute the University System of Maryland. UMBC is located on 482 acres with 4.2 million gross square feet and only 15 minutes from Baltimore's Inner Harbor and 30 minutes from Washington, D.C. and five minutes from BWI Airport.

The University of Maryland, Baltimore County (UMBC) is a dynamic public research university located in Baltimore County, Maryland, and is a member institution of the University System of Maryland. UMBC is recognized for its strong commitment to academic excellence, innovation, and inclusive excellence, serving a diverse student population across undergraduate, graduate, and professional programs.

B. SUMMARY STATEMENT

The University of Maryland, Baltimore County (UMBC), a constituent institution of the University System of Maryland and an agency of the State of Maryland (herein referred to as the "University" or "UMBC"), is seeking proposals from qualified Offerors to provide Underground Mechanical Utilities Maintenance Services.

This solicitation shall be conducted in accordance with the University System of Maryland (USM) Board Regents Procurement Policies and Procedures.

C. MINIMUM QUALIFICATIONS

To be considered for award, the Offeror shall meet the following minimum qualifications as of the Proposal Due Date. Failure to demonstrate compliance with the minimum qualifications may result in the Proposal being determined not reasonably susceptible to being selected for award.

1. The Offeror shall have at least five (5) years' experience with providing Underground Mechanical Utilities Maintenance services listed in this RFP. Each reference shall include the organization's name, a brief description of the services provided, the timeframe of the engagement, and contact information (including name, title, phone number, and email address) for the individual who can verify the services rendered.

2. Offeror must be licensed as required by the Construction Firm Law of Maryland (Title 17, Subtitle 6, of the Business Regulation Article of the Annotated Code of Maryland) and shall submit proof of current licensing with their proposal.

3. The Offerors must also have appropriately licensed individual (s) who possess a trade-specific Master's License issued by the State of Maryland applicable to the work required under this RFP and shall submit proof of current licensing with their proposal.

4. The Offeror shall provide a minimum of three (3) references for contracts performed within the past five (5) years that are comparable in size, scope, and complexity to the services contemplated by this RFP. Preference may be given during the technical evaluation to experience involving higher-education institutions or similarly complex multi-facility environments.

   For each reference, the Offeror shall provide the organization name, contract term, description and scope of services, approximate size of the program, and the name, title, telephone number, and email address of an individual knowledgeable about the Offeror's performance.

5. The Offeror shall provide evidence of financial stability (e.g., audited financial statements or Dun & Bradstreet report) to ensure long-term viability.

6. UMBC reserves the right to verify all information provided, as well as to consult any other sources available including any person or persons associated with the references provided or the project cited as a reference. UMBC also reserves the right to request additional references or contact any known firm associated with the Offeror, even if not provided as a reference by the Offeror. References will be held in the strictest of confidence.

D. SCOPE OF WORK/SPECIFICATIONS

1. SCOPE

A. The Contractor is to furnish all labor and material necessary to comply with scope of work and/or drawings and specifications furnished by authorized personnel of the University for work on UMBC Campus and University-owned property.

B. The contractor is to coordinate all trade work with his forces and any contractors separately assigned by the University.

C. The Contractor shall complete his work in the time required by the University and in accordance with the requirements stated within the Notice to Proceed.

D. The majority of this maintenance contracting work will include, but is not limited to, water supply and drainage pipe installation; storm drain and sanitary inlet installations and maintenance; fire hydrant, potable and non-potable installation, replacement and maintenance; water lines, chilled water and hot water 180-degree water lines and back flow devices.

E. Emergency services will be coordinated with the University's representative, and the Contractor shall be available on a twenty-four (24) hour, seven (7) days per week basis. The Contractor shall respond within two (2) hours after receiving notification for emergency service, by providing a qualified service mechanic at the job site to assess the emergency. The Contractor must provide one telephone number where a designated representative can be contacted in case of emergency, with a second telephone number as backup. Overtime must be pre-approved by FM personnel.

Note: Emergency services will be requested on a rotation basis to ensure adequate distribution of work to all selected contractors.

F. All work performed under this contract shall be in accordance with UMBC's **Standard Maintenance General Conditions for Maintenance Projects, Exhibit R**

2. UNDERGROUND MECHANICAL UTILITIES MAINTENANCE, REPAIR AND REPLACEMENT WORK

The general underground utility repair, maintenance, replacement and installation work to be included under the On Call Underground Mechanical Utilities Maintenance Contractor is as described, but not limited to, the following:

Maintenance and Repair Responsibilities:

A. Locate, identify, mark existing underground utility systems including; electric, voice, data, water supply, natural gas, storm water, duct-banks & sanitary.
B. Various types of excavation.

C. Comply with MOSHA/OSHA and all other applicable codes for below grade shoring and other safety requirements.
D. Repair/replace underground water supply valves.
E. Repair/replace underground water supply piping.
F. Repair/replace underground storm water management systems.
G. Repair/replace underground natural gas systems.
H. Repair/replace underground sanitary systems.
I. Repair/replace/maintain storm water management ponds, spillways, culverts, outfalls, etc.
J. Repair/replace hardscape surfaces unearthed as part of the underground repair.
K. Repair/replace softscape surfaces damaged as part of the underground repair.
L. Maintain proper back-fill materials & compaction rates as conditions required.
M. Replace/repair/install duct-banks, conduits, raceways, wire-ways, etc.
N. Replace/repair/install manholes, drains, catch basins, etc.

Contractors must have qualified and trained personnel and must be on-site at all times when assigned to a project, through rotation and/or bid. All Contractors employees must also be fully qualified and trained personnel in the process and techniques utilized to deal with underground mechanical utilities issues. All Contractors employees must also be fully qualified and trained personnel to use the equipment specified in this solicitation and necessary to complete the required tasks.

3. TASK ORDER PROCESS

Generally, requests for task orders will be issued to the selected Contractors through a competitive selection or rotation process. The determination for the applicable process will be at the University's sole discretion. As well, at its sole discretion, UMBC may elect to request a) a lump sum, b) a lump sum with a break out of the cost, c) time and materials not-to-exceed maximum price, d) an itemized price for the work requested, or e) to request the task order be performed on a time and material basis. Under special circumstances and only if approved by Procurement and Strategic Sourcing office, UMBC may award a task order on a sole source basis and/or authorize that only select On Call Contractors (i.e., not **all** On Call Contractor) be provided the scope of work for a specific task order.

3.1 Competitive Selection: Generally, UMBC will, but is not required to do so, award task orders through a competitive process between the selected firms. In most instances where the task order project is estimated to be greater than $200,000 UMBC Procurement and Strategic Sourcing (referred to as "Procurement"), will issue via email to all awarded On Call Contractors a task order request for proposal (RFP). The RFP will include a description of work, task order documents (drawings and specifications), a price proposal format, a desired project schedule, the task order schedule, date of site visit and Minority Business Enterprise (MBE) goals. Responses to questions will be provided through addenda and a deadline will be established for the submittal of Price Proposals. The Contractor shall be selected based on the task order proposal that provides the lowest responsive and responsible price to the University. The details for the award shall be captured on a Task Order/Notice to Proceed form executed by the Contractor and the University.

3.2 Task Order Rotation: For task orders, usually and generally but not limited to task orders that are reasonably anticipated to be valued up to $200,000, UMBC may elect to rotate between the selected firms. In these instances, Facilities Management (FM) will receive a rotation confirmation from Procurement and then notify the applicable Contractor of the task order. FM will provide the Contractor with applicable documentation, which may include a written scope of work, time frame/schedule, specifications, and drawings. A site visit may also be conducted as needed. Rotation will commence with the awarded contractor who achieved the highest rating in this procurement with rotation continuing in order of rank.

As soon as possible after receiving the necessary information, the Contractor shall provide a price proposal for the task order in the manner requested by the University. Contractors must indicate their interest within 48 hours of receipt of the UMBC request and schedule a site visit. If the Contractor fails to provide a price within seven (7) calendar days following the site visit, or if the price is

considered unreasonable based on the University's estimated cost, the University may elect to proceed with the next rotational contractor or conduct a competitive process. If proposal is determined acceptable, FM Personnel shall issue a Notice to Proceed, which authorizes the Contractor to proceed with the task order, as well as determine the work schedule, including the start date and the completion date.

3.3 Task Order Price Proposal Components: Price proposals submitted for all task orders shall include the following information:

- Name of the Working Foreman or Field Superintendent to be assigned to the project, and if applicable, the name of the Project Manager,
- Time frame/schedule with periods of performance and substantial completion noted;
- MBE participation dollars and percentage (if any) (refer to Section IV K for further info),
- Price quotation as specified in the task order request. Such pricing format may include:
  - Lump Sum;
  - Lump Sum accompanied with break out for analysis and informational purposes;
  - Time and Material or Time and Material Not to Exceed with itemized breakdown of the total costs for self performed work (labor); itemized list of material and equipment with quoted mark-up percentage; and subcontractor quotes with quoted mark-up percentage; and
  - Estimate time and material quote with estimated itemization provided.

In addition, UMBC reserves the right to request other information such as but not limited to, project plan/preliminary schedule, references of similar projects for the Project Manager and/or Working Foreman/ Field Superintendent, etc.

3.4 Material Costs: Material costs, which will be reimbursed to the Contractor, shall be based on the cost of materials to the Contractor from his usual sources of supply with all usual trade practice discounts deducted. All cost discounts shall be deducted in determining materials costs. The Contractor shall provide equipment and material as specified by the University from sources at the least cost to the University. Competitive quotations shall be secured wherever feasible and, in all instances, when requested by the University. Contractor will be required to provide copies of invoices and proof of payment when requested by the University.

Contractor is responsible for receiving own materials, including unloading of delivery trucks, checking deliveries, transportation to the work area, University employees are not responsible for this.

4. PROTECTION OF ADJACENT FACILITIES AND PROPERTY

Work to be performed under this Contract is likely to be in a congested area of the campus, subject to heavy vehicular traffic and limited parking. The Contractor shall take every precaution to protect others from injury and to avoid disruption of traffic while work is being performed.

5. PROTECTION OF WORK, STORAGE AND TRANSPORTATION OF MATERIALS

A. Transportation: All materials and equipment shall be transported and handled in a manner to prevent damage of any kind, including the use of proper packaging and lifting equipment. The Contractor shall supply all cranes, lifts, hoists, or other related equipment, as well as skilled personnel necessary for the proper and efficient movement of materials. Equipment shall be provided with proper guides, bracing, and safety devices as required by law and good practice. Inspections and Certifications of the operator are to be coordinated with the University's Office of Environmental Safety & Health (ESH).

B. All materials and equipment shall be so crated, packaged, blocked and otherwise protected during

transportation and handling to prevent damage of any kind. This shall include the provision of any necessary lifting devices or machines and the skilled personnel to operate such machines.

C. Protecting Work in Place: Provide all necessary protection for completed work to prevent any and all damage. Walk off mats shall also be required at the entrances and exits of all work sites.

D. Prior to using any University elevator for transporting materials, the Contractor shall verify applicable load weights and ensure proper loading of the elevator with the FM Project Manager.

6. **TEMPORARY WATER AND ELECTRICAL SERVICE**

Unless otherwise specified in writing, the water, electricity or other utilities required to complete work assigned under this Contract will be provided by the University at no extra cost to the Contractor.

No utility interruptions shall be initiated without the prior authorization of the FM Project Manager. The FM Project Manager is the only authorized person to arrange for utility shut down. The Contractor shall not proceed with any outage without two (2) weeks prior notification to him/her unless otherwise agreed by the University.

7. **EMPLOYEE IDENTIFICATION**

Due to the nature of routine on-call work and required security, the selected Contractors shall obtain identification for all of their employees and subcontractors that will perform work at UMBC. Employee identification shall be visible at all times when physically present on campus.

8. **TOOLS AND MOVEABLE EQUIPMENT**

The Contractor shall furnish all necessary protective equipment, concrete mixing boxes, water barrels, wheelbarrows, hoes, shovels, tools, mortar boards, ladders, wheelbarrows, hoes, shovels, tools, shop equipment and fabricating items customary to the trade, etc., and all other moveable equipment necessary to completing the work performed under this contract. The furnishing of tools shall include all maintenance, loss and breakage. Any equipment rental must be approved by FM prior to its use.

9. **UNIVERSITY'S RIGHT TO FURNISH MATERIAL AND EQUIPMENT**

The University reserves the right to purchase material or job required merchandise. The Contractor will be reimbursed only for his labor cost used on the materials furnished. Materials not used on the job shall be returned to University's stock for credit to job.

10. **SUBCONTRACTS**

The Contractor shall be reimbursed for subcontractor work per the quoted markup.

Before any such Subcontracts are awarded, the University reserves the right to review/ approve the submitted subcontractors.

11. **VEHICLES**

All vehicles and mobile equipment used by the selected firms and subcontractors shall be identified with the firm name displayed in a highly visible manner. The firm name, license numbers, telephone number, and address shall be displayed on all Contractor and subcontractor vehicles in three inch (3") high letters. This requirement extends to any personal vehicles used in the performance of work at the University. The Contractor shall apply for a University permit through Parking Services. The On-Call Underground Mechanical Utilities Maintenance Contractor(s) will be required to coordinate with FM on the loading and unloading

of materials.

12. **REMOVAL OF DEBRIS & CLEANING**

Waste and debris shall not accumulate in the building or work area. The Contractor shall be responsible to remove debris and clean work areas on a daily basis as the work progresses and to remove all excess material, waste, and debris upon completion of the work. Woodwork painted or decorated surfaces and finished floors shall be sponged or washed as necessary to remove plastering materials and prevent damage to finished surfaces. On completion of the work, areas shall be left clean, and free from abrasive or set materials liable to cause damage. The Contractor shall patch and refinish all areas damaged to accommodate the work to match existing. The Contractor shall remove all waste materials and debris from the campus at no charge to the University. Salvageable material shall be piled separately for reuse or salvage by the University.

13. **SUPERVISION OF THE WORK**

The FM Personnel assigned to the task order shall have general supervision and direction of the work. The FM Personnel shall also inspect all work for compliance with University Standards, as well as compliance with the scope of work defined in the task order.

Materials, workmanship and finishes for new work in permanent buildings shall be similar and equal, as determined by the FM's Project Manager, to those in the existing building.

All change order work associated with any task order may not proceed until a contract amendment has been issued by Procurement for the additional work and the applicable additional costs.

The Project Manager for FM shall have general supervision and direction of the work which shall include, but not be limited to, the following:

A. Determination of a work schedule for coordination of crafts.

B. Project starting and completion dates.

C. Inspect all work for compliance with University Standards & Project scope.

D. Issuance of the Notice to Proceed, which shall authorize the Contractor to proceed with the work as defined. The Contractor shall be advised in writing to close out a project at which time he shall stop all work and submit a request for final project payment.

E. At the University's sole discretion, UMBC may elect to end a task order prior to completion. In this situation, the University will provide written notification to the Contractor to close-out a task order. Upon receipt of the notification, the Contractor shall stop all work and submit a payment request for all completed work. The University shall not be liable to the Contractor for any payments for work that has not been performed.

F. The Contractor must provide a designated safety representative throughout the duration of the project to oversee safety compliance and ensure all work is performed in accordance with applicable federal, state, and local safety regulations.

14. **CODES AND STANDARDS**

All work performed under this Contract shall be in compliance with all applicable codes, standards and regulations. Each campus will issue its standards, if any, to the selected On-Call Contractor (s).

15. **REQUEST FOR TEMPORARY USE OF KEYS BY CONTRACTORS**

No keys shall be issued to Contractor without the proper authorization. The following process will be used to issue keys:

A. Authorization form shall be issued by Project Manager, Inspector or other person listed on the approved authorization list.

B. Key shall be charged out by Work Control Center to the person presenting the authorization form.

C. Key (s) shall be returned each day before end of business except when specifically authorized for nighttime or weekend work.

D. The Work Control Center closes at 4:00 p.m. However, the Central Plant Boiler Room is open twenty-four hours, seven days per week and keys can be returned there. Keys are not to be taken home.

E. Keys shall be requested and issued only as required, i.e. master keys shall not be issued when individual keys will suffice.

F. University keys, in the possession of Contractors and/or Service Personnel, will not be loaned to others, tampered with or duplicated.

SPECIAL CONDITIONS

1. The University reserves the right to assign University personnel employed through various trades to projects under this contract to perform a portion of the work under a particular project.

2. The Contractor must be able to deliver all said labor and standard items of material and equipment within time frame confirmed in the Notice to Proceed for each project. Purchase of equipment and material not usually carried in stock by local distributors shall be accomplished competitively within the shortest time possible while maintaining the job schedule.

3. The Contractor shall maintain a local office with telephone available for receiving and making calls throughout the working day and shall have available locally sufficient storage space for materials and equipment if his office and principal place of business is not located within 50 miles of the University.

4. The Contractor shall provide one person designated as the Project Manager and have one (1) 100% on-site Field Superintendent. The Project Manager shall be the Contractor's agent for reviewing the project in the field when required with the University's representatives and shall be the channel for all inquiries concerning work in progress or work to be started under this Contract. The Field Superintendent shall manage the job on-site and supervise all on-site personnel. All supervisory personnel for the On-Call Contractor must be direct employees of said Contractor.

5. The Project Manager should be readily available to review all phases of the project when requested by the University. The Project Manager should have a cell phone/beeper to facilitate accessibility to the University.

6. The timeframe of work hours for the Contractor shall be 7:30 a.m., through 4:00 p.m., Monday through Friday. The work shall be carried forward during normal work hours unless the Contractor elects on his own volition to extend operations beyond regular hours and such extensions are approved by the University**.**

7. The Contractor shall perform the work under this Contract on the job site in the presence of University employees, other University Contractors and/or Subcontractors, whether union or non-union and shall complete the work assigned in the time required. If off-site work such as shop fabrication, the University reserves the right to inspect such off-site work at any time

RATES AND MARK UPS:

CONTRACTOR'S LABOR RATES**:** It is understood and agreed by the Proposer that all quoted hourly billing rates include the following for staff:

A. Salary cost inclusive of all associated overheard and profit.
B. Premiums for Workmen's Compensation and Unemployment Insurance, Contractor's share of Social Security Payment, and other such expenses based on payrolls of labor performed in connection with the work under the Contract.
C. Premiums for insurance for this Contract as required by the Specification or by the law to carry including Contractor's Liability, Property Damage, Vehicle Insurance on tools and equipment a stipulated in the Specifications.
D. Fringe benefits for health and welfare, Workman's Compensation insurance, vacations, holidays and pensions shall be furnished by the Contractor.
E. Tools and construction equipment of all types including maintenance, loss and breakage as required to complete the work.
F. Incentive pay, if any.
G. Travel costs for Contractor's business operation or employee's residence to job site of University of Maryland, Baltimore County.
H. Welfare funds such as vacation allowance or other fringe benefits which are included in the local prevailing wage rates by written agreement between Contractors and Labor Unions.
I. Equipment and material owned by the contractor.

Additionally, within these rates shall be any premiums for insurance for this Contract and all types of costs, including fuel, maintenance, loss, depreciation and breakage for tools, vehicles, and equipment as required to complete the work. The rates shall also include any costs for material owned by the Contractor.

The University will not recognize any premium or incentive pay and no work shall be performed on an overtime basis or shift differential and no overtime payer shift differential shall be included as **a "job cost"** unless the performance of such overtime or shift differential has been authorized by the issuance of a contract/task order or as agreed to in the submitted not-to-exceed price by the Contractor or as required in the scope of work issued by the University on a particular project.

In the event an emergency exists which would require immediate overtime work, an authorized representative of FM shall be verbally notified by the Contractor immediately and if permission to perform this work is granted verbally, it shall be confirmed in writing by FM within twenty-four (24) hours of such work with a contract/task order amendment to the task order to be issued within one (1) week of such work.

In the event that overtime work is required by FM, it will be recognized as a "job cost" only if a contract/task order amendment has been issued to the Contractor's not to exceed or lump sum price. The overtime work shall be limited to the work and time approved in advance of its performance and paid at the recognized premium rate.

Incentive payments or premium payments made to any employees by the Contractor either as permanent employee pay, subsistence or other pay in excess of the wage shall be at the expense of the Contractor and must be included as part of the quoted Contractor Labor Rates.

PROPOSAL SECURITY

Pricing for this Contract is based on actual project(s), therefore, a Bid Bond (Exhibit Q) is required with price submittals. A Bid Bond will be required for each individual Task Order exceeding $100,000. The Bid Bond must be issued by a surety company licensed to issue bonds in the State of Maryland. The bond must be in an amount not less than five percent (5%) of the total amount of the Task Order.

If a specific project/task order is $100,000 or more, the proposer shall furnish a Performance Bond (Exhibit O) and Payment Bond (Exhibit P), each in the amount of one hundred percent (100%) of the project/task order including executed Change Orders, These must be provided at the time of the signing of the Notice to Proceed for the applicable project/task order and prior to the start of any work. Please note that as part of the Technical Proposal, a Proposer must indicate its capability of obtaining the necessary bonds

Cost for any bonds should be included in the Contractor's pricing. This does not apply to the cumulative total of work in progress under a given-on call contract but rather to a single project.

Acceptable security shall be limited to: a) a bond in a form satisfactory to the State underwritten by a surety company authorized to do business in the state; b) a bank certified check, bank cashier's check, bank treasurer's check, cash, or trust account; c) pledges of securities backed by full faith and credit of the United States government or bonds issued by the State of Maryland; d) Irrevocable letters of credit in a form satisfactory to the Attorney General and issued by a financial institution approved by the State Treasurer; and e)the grant of a mortgage or deed of trust on real property located in the State when it is satisfactory to the procurement officer, the face amount of the instrument does not exceed 75% of the contractor's equity interest in the property, and the assignment of the mortgage or deed or trust is recorded in the county land records pursuant to Real Property Article, 30193, Annotated Code of Maryland.

Assistance in obtaining bid, performance and payment bonds may be available to qualifying small businesses through the Maryland Small Business Development Financing Authority (MSBDFA). MSBDFA can directly issue bid, performance or payment bonds up to $750,000. MSBDFA may also guaranty up to 90% of a surety's losses as a result of a contractor's breach of contract. RFP 91099 WG Page 20 of 50 ON CALL UNDERGROUND MECHANICAL UTILITIES MAINTENANCE MSBDFA's exposure on any bond guaranteed may not, however, exceed $900,000. Bonds issued directly by the program will remain in effect for the duration of the contract, and those surety bonds that are guaranteed by the program will remain in effect for the duration of the surety's exposure under the contract. To be eligible for bonding assistance, as business must first be denied bonding by at least one surety in both standard and specialty markets within 90 days of submitting a bonding application to MSBDFA. The applicant must employ fewer than 500 full-time employees or have gross sales of less than $50 million annually, have its principal place of business in Maryland or be a Maryland resident, must not subcontract more than 75 percent of the work, and the business or its principals must have a reputation of good moral character and financial responsibility.

Finally, it must be demonstrated that the bonding or guarantee will have a measurable economic impact, through job creation and expansion of the state's tax base. Applicants are required to work through their respective bonding agents in apply for assistance under the program. Questions regarding the bonding assistance program should be referred to:

Maryland Department of Business and Economic Development
Maryland Small Business Development Financing Authority
401 East Pratt Street
Baltimore, Maryland 21202
Phone: (410) 767-6300

Should the Proposer to whom the contract is awarded fail or be unable to execute the contract, for any reason, within ten (10) days after notification of award, then an amount equal to the difference between the accepted price, and that of the proposer to whom the award subsequently is made shall be paid to the University as liquidated damages.

Evaluation of a Request for Proposal takes a considerable length of time. Maryland State Law does not permit any information regarding the evaluation to be released prior to the award. The award date is the date of approval by the Board of Public Works."

RECORDS OF PROJECT COSTS TO BE PROVIDED BY THE CONTRACTOR

Records: The Contractor shall retain records in accordance with UMBC Standard Maintenance General Conditions, Exhibit R.

BILLING FORMAT

Contractor is to provide Invoices for all billings, with a spreadsheet that documents hours worked, by whom, by date and time and any material costs.

With each Invoice, the Contractor is to attach any backup information, including a copy of any subcontractor invoices, if applicable.

"JOB COSTS" WHICH THE CONTRACTOR WILL BE REIMBURSED: All payments made for subcontractors cost plus quoted percentage mark-up by the On Call Mechanical Underground Maintenance Contractor.

CONTRACT TERMS

1. The initial term for the contract will be two (2) years with six (6) one-year renewal options (for a total potential contract term of 8 years), at the University's sole discretion. All work under the contract will be requested through a task order process for the individual projects. The University reserves the right to terminate the contract if the Contractor fails to perform satisfactorily as well as fails to respond to requests for task orders multiple times. As well, UMBC reserves is under no obligation to renew the contract(s) and may elect to renew with only certain on-call contractors, if deemed in its best interest.
2. Pricing for the initial two-year term will be provided by the shortlisted firms who are requested to submit a price proposal. Rates shall be firm during each contract period. If any renewal terms are elected by the University, a pricing adjustment may be contemplated by the University. It is the responsibility of the Contractor to request a price increase at least ninety (90) days prior to the end of the contract term. Increases shall be provided at the University's sole discretion. The Contractor shall provide the basis for the request and shall only be considered for the quoted hourly rates. The amount of the requested increase shall not exceed the consumer price index for "All Urban Consumers" as published by the U.S. Department of Labor Statistics. For purposes of calculating the potential increase, the Producer Price Index for the twelve- month period ending three (3) months prior to the end of the contract will be used, in accordance with the percentage change of the U.S Bureau of Labor Statistics PPI Industry, Industry Group for Mechanical contractors, nonresidential building work, Series Id: PCU23822X23822X, issued for Product type Underground Mechanical contractors, nonresidential building work. For example, if the contract term ends April 30, 2027, the price index for twelve-month period ending January 30, 2027, will be used.
3. Requested increases above a 5% cap will not be considered. As well, increases are not cumulative for prior years; for example, if a contractor does not request an increase for the first renewal year and then requests an increase for the second renewal year, the Contractor cannot include a cumulative amount which includes the first renewal year. Upon approval by the University, any such modified hourly rate will constitute the labor cost figure for the contract renewal period. The University reserves the right to terminate this Contract at any time upon giving thirty (30) days written notice.

SECTION II. EVALUATION AND SELECTION PROCEDURE

A. EVALUATION COMMITTEE

All technical proposals received by the closing deadline will be evaluated by a committee appointed by the Procurement Officer. The committee may request additional technical assistance from any source within the University System of Maryland, state government, or other sources deemed appropriate. Technical and price proposals will be evaluated independently.

B. QUALIFYING PROPOSALS

Proposals shall be initially reviewed for compliance with the solicitation requirements. Failure to comply with solicitation requirements may result in a proposal being classified as not reasonably susceptible of being selected for award. Minor irregularities in proposals that are immaterial or inconsequential in nature may be cured or waived whenever it is determined to be in the University's best interest.

C. TECHNICAL EVALUATION

1. After determining compliance with the RFP's minimum requirements, the evaluation committee will assess and rank technical merit of each proposal in accordance with the criteria below.
2. At the discretion of the Procurement Officer following recommendations by the evaluation committee, a shortlist of qualified proposals may be established during the technical evaluation. Only shortlisted offerors would continue in the evaluation process; offerors not short-listed shall be so advised.
3. Interview sessions will be conducted with Offeror as determined by the University. The purpose of these sessions is to meet the key personnel and discuss aspects of the Vendor's proposals.
4. Following the interviews, a second phase evaluation will be conducted after which negotiations may be conducted with Vendor(s) as the University finds appropriate.
5. The University will choose from among the highest rated Vendor proposals the one which will best serve the interests of the University.

   Further information may be requested by the University during the selection process.

UMBC reserves the right to take the following action without liability:

- Cancel this solicitation prior to an award;
- Reject in whole or in part, any and all proposals ;
- Negotiate with only one firm or multiple firms; and/or
- Accept any proposal in the best interest of the University.

D. FINANCIAL EVALUATION

Price proposals will be evaluated separately from Technical Proposals. Do not submit price information in the technical proposal. **Price Proposals will be requested after a shortlist has been established.**

E. DISCUSSIONS - BEST AND FINAL OFFERS

1. The Procurement Officer may invite one or more qualified offerors for oral presentations of their proposals. Discussions or negotiations may be conducted with qualified offerors. With or without discussions, UMBC may determine whether the Offeror to be not responsible or the Offeror's Proposal to be not reasonably susceptible of being selected for award at any time after the initial closing date for receipt of Proposals and prior to Contract award.
2. When in the best interest of the University, the Procurement Officer may request that qualified offerors revise their initial proposals by submitting best and final offers.

F. EVALUATION CRITERIA

1. The evaluation criteria are listed below in descending order of importance:

   a. Offeror's Response to RFP Objectives and Requirements
   b. Past Performance and References
   c. Offeror's Capacity and Experience
   d. Proposed Management and Project Personnel
   e. Cost Proposal

G. FINAL RANKING AND SELECTION

Following evaluation of the technical and price proposals, the evaluation committee will recommend to the Procurement Officer award to the responsible offeror whose proposal is determined to be the most advantageous to the University.

H. DEBRIEFING

Unsuccessful offerors may request a debriefing. If the offeror chooses to do so, the request shall be submitted in writing to the Procurement Officer within ten days after the offeror knows or should have known its proposal was unsuccessful. Debriefings shall be limited to discussion of the specific offeror's proposal only and shall not include a discussion of a competing offeror's proposal. Debriefings shall be conducted at the earliest feasible time.

SECTION III. INFORMATION REQUIRED IN ALL PROPOSALS

A. ORGANIZATION OF TECHNICAL PROPOSAL SUBMISSION

1. The technical proposal shall be submitted electronically not later than the date and time indicated on the Key Information Summary Sheet.

2. All other correspondence should be directed to the appropriate procurement representative per the instructions contained in this document. The **solicitation name and number shall appear in subject line of email** along with your **company name**.

3. Any attachment, or cumulative attachments, at or exceeding 150MB in size will not be accepted by the University email system. Zip files will also not be accepted by the University. Bidders are permitted to separate attachments into multiple, but shall be clearly labeled.

4. If product literature and other publications are needed to supplement offeror's response, include a reference to the document name and page in text, and insert the product literature, etc. following the last section of the response.

B. EXECUTIVE SUMMARY/TRANSMITTAL LETTER

Each technical proposal shall be covered by an executive summary/transmittal letter, prepared on the offeror's business stationery, signed by an individual who is authorized to bind the firm to all statements, proposed services, and prices offered. **Do not include price information in the transmittal letter.**

C. TECHNICAL PROPOSAL

1. Ensure that it is page-numbered and prepared in a clear and concise manner that addresses each part of the RFP. **Do not include price information in the technical proposal**.

2. Organize the technical proposal in the same sequence as Section I of this RFP, and address each separate item herein, confirming compliance and describing in detail how offeror proposes to meet or exceed each requirement.

D. TECHNICAL PROPOSAL CONTENTS

1. Executive Summary/Transmittal Letter. A brief synopsis that demonstrates offeror's understanding of the University's requirements and highlighting offeror's proposed solution/approach to the project, tax identification number and a **statement attesting to all terms and conditions or contract terms that Offeror is taking exception to.**

   Executive Summary shall also include a statement identifying those portions of the technical proposal considered confidential, or containing proprietary information or trade secrets as detailed in Section V.K.

2. Technical Proposal. Narrative discussing all objectives and requirements as outlined in Section I of this RFP. Organize the technical response in the same sequence as Section I of this RFP, and address each separate item herein, confirming compliance and describing in detail how offeror proposes to meet or exceed each requirement.

3. Key Personnel. Using Exhibit H, provide the names of key offeror personnel proposed for the University's project, if awarded, emphasizing specific experience on contracts similar in scope and

volume to the requirements of this RFP. Note: offeror shall submit forms only for personnel reasonably expected to be committed to the University for the duration of the project.

Include, a minimum, information on the Key Personnel assigned to the University's contract.

Provide lists names and titles of team members who will be assigned to this Project including assigned project roles and tasks.

In addition to Key Personnel Forms, resumes shall also be submitted for all individuals identified in list.

Clearly define the division of responsibility among members of Offeror's team.

4. Company Profile. Complete the Company Profile form included with this RFP (Exhibit F), noting the website to be consulted for additional company information.

5. Subcontractors. List each subcontractor proposed for the University's contract, with a complete description of its role and involvement. Duplicate the "Company Profile" form as necessary for this response.

6. Offeror Experience on Similar or Relevant Projects. Complete the Firm Experience Form (Exhibit G), providing not less than three comparable projects previously undertaken by offeror. Identify the similarities and differences between projects recently completed and the proposed project. Documented success with strategic planning, higher education, research enterprise planning, and organizational and programmatic restricting to advance work culture including diversity, equity and inclusion is preferred. The University reserves the right to make such investigations, as it deems necessary to confirm the responsibility of offeror. In the absence of information clearly indicating that the offeror is responsible, the Procurement Officer shall decide of non-responsibility.

7. Additional Documentation. Furnish any additional documents that may become part of the final agreement (e.g., Software License Agreements, General Terms & Conditions, etc.).

8. References. Furnish reference data for not less than three (3) comparable projects currently underway or completed, including the name and telephone number of the project manager and/or procurement officer for each. The University reserves the right to make such investigations as it deems necessary to confirm the responsibility of offeror.

9. The University reserves the right to request offeror to furnish its most recent annual financial statements or other financial report to confirm financial capacity and stability.

E. BID/PROPOSAL AFFIDAVIT

Complete the Bid/Proposal Affidavit (Exhibit E) and submit with the technical proposal.

F. MBE UTILIZATION AFFIDAVIT

The MBE Utilization Affidavit is included in this solicitation as Exhibit D. In addition to completing the MBE Utilization Affidavit, offerors are encouraged to: 1) Identify potential MBE(s), the scope of services to be performed by the MBE(s), and the percentage(s) of the total contract price to be paid for said scope of work; and 2) Include evidence of MBE certification for each MBE prime or MBE subcontractor are required of the successful offeror.

G. PERFORMANCE BOND

The successful offeror shall be required to submit a performance bond for each task order issued under this contract greater than $100,000 for 100% of the contract value. The bond shall be in the form included as (Exhibit O); information regarding other forms of security allowed under the *USM Procurement Policies and Procedures* will be provided upon request to the Procurement Officer.

H. PAYMENT BOND

The successful offeror shall be required to submit a payment bond for each task order issued under this contract greater than $100,000 for 100% of the contract value. The bond shall be in the form included as (Exhibit P); information regarding other forms of security allowed under the *USM Procurement Policies and Procedures* will be provided upon request to the Procurement Officer.

I. ADDENDA ACKNOWLEDGMENT FORM

Should one or more addenda be issued to this RFP, offerors shall acknowledge receipt of each on the Addenda Acknowledgment Form (Exhibit J). Identify each addendum by number and date, sign the form.

J. CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE

Complete the Conflict of Interest Affidavit and Disclosure (Exhibit K) and enclose with the technical proposal

J. PRIME CONTRACTOR LIST OF CONTRACTORS

Complete (Exhibit M) and enclose with the technical proposal.

SECTION IV. INFORMATION FOR OFFERORS

A. ISSUING OFFICE AND PROCUREMENT OFFICER

The sole point of contact for purposes of this RFP is the Procurement Officer or his/her representative (hereinafter referred to as Procurement Officer) noted on the Key Information Summary Sheet. Only the information communicated by the Procurement Officer shall be deemed the official position of the University; no other State or University employee, official, or representative has authority to change the requirements of this solicitation. Attempts by offeror to contact members of the evaluation committee or otherwise circumvent this procedure in any manner may be grounds for disqualification.

B. PRE-PROPOSAL CONFERENCE

A pre-proposal conference will be held as noted on the Key Information Summary Sheet. Offerors shall submit questions in writing to the Procurement Officer prior to the pre-proposal conference

To ensure adequate spacing, all potential offerors should confirm attendance by returning the **Pre-Proposal Conference Response and Response Form** (Exhibit A), not less than 48 hours in advance of the conference.

The University is committed to ensuring that persons with disabilities have equally effective opportunities to participate in and benefit from the University's programs and services. Persons who may require reasonable ADA accommodations should contact the Issuing Office at nmiller7@umbc.edu five (5) days prior to any meeting scheduled in connection with this solicitation.

C. SITE VISIT

No site visit will be held for this RFP.

D. QUESTIONS AND INQUIRIES

Offerors shall direct all communications regarding this solicitation to the Procurement Officer. Submit questions to the Procurement Officer, in writing (email preferred) not later than the date indicated on the Key Information Summary Sheet. Addenda, if required, will be furnished to all potential offerors known to have received the RFP.

E. INSURANCE

1. The Offeror shall secure, pay the premiums for, and keep in force until the expirations of the contract, and any renewal thereof, adequate insurance as provided below, such insurance to specifically include liability assumed by the Bidder under the contract. Upon award, the successful Bidder shall furnish certificates of insurance.

    a. Commercial General Liability Insurance including all extensions; $2,000,000 each occurrence; $2,000,000 personal injury; $2,000,000 products/completed operations; and $2,000,000 general aggregate.

    b. Workmen's Compensation Insurance and Unemployment Insurance as required by the laws of the State of Maryland.

    c. If automotive equipment is used in the operation, automobile liability insurance of $1,000,000 combined single limit, each accident.

    d. If food products are used in the operation, food products liability insurance, if not included in the Comprehensive, with limits of not less than $1,000,000 for each person and $2,000,000 for each accident.

2. Each policy for liability protection, bodily injury or property damage shall specifically name, on its face, University of Maryland, Baltimore County, as an additional named insured as respects operations under the contract and premises occupied by the Contractor provided, however, with respect to the Contractor's liability for bodily injury or property damage under items 1.a.-1.e. above, such insurance shall cover and not exclude Contractor's liability for injury to the property of the University and to the persons or property of employees, students, faculty members, agents, officers, regents, invitees or guests of the University.

3. Each insurance policy shall contain the following endorsements: "It is understood and agreed that the Insurance Company shall notify in writing procurement officer forty-five (45) days in advance of the effective date of any reduction in or cancellation of this policy." A certificate of each policy of insurance shall be furnished to the procurement officer. With the exception of Workmen's Compensation, upon the request of the procurement officer, a certified true copy of each policy of insurance, including the above endorsement, manually countersigned by an authorized representative of the insurance company, shall be furnished to the procurement officer. A certificate of insurance for Workmen's Compensation together with a properly executed endorsement for cancellation notice shall also be furnished. Following the notice of contract award, the requested certificates and policies shall be delivered as directed by the procurement officer. Notices of policy changes shall be furnished to the procurement officer.

4. All required insurance coverages shall be acquired from insurers authorized to do business in the State of Maryland and acceptable to the University. The insurers shall have a policyholders' rating of "A-" or better, and a financial size of "Class VII" or better in the latest edition of *Best's Insurance Reports*.

F. PROPOSAL DUE DATE

Proposals shall be received at the Issuing Office by the date and time indicated in the Key Information Summary Sheet. Requests for extensions will not be granted, nor will late proposals, late requests for modification, or late requests for withdrawal be considered.

Unless specifically requested, proposals submitted by fax will not be accepted.

G. DURATION OF PROPOSAL OFFER

Proposals submitted in response to this RFP are irrevocable for 120 days following the closing date for proposals or, if requested, the due date for best and final offers (BAFO). This period may be extended by mutual written agreement between the offeror and the University.

H. PROCUREMENT METHOD

This solicitation shall be conducted in accordance with the *University System of Maryland (USM) Board of Regents Procurement Policies and Procedures*. The procurement method is Competitive Sealed Proposals.

I. BASIS FOR AWARD

1. The University may classify a proposal as "not reasonably susceptible of being selected for award" if it is incomplete or does not meet minimum requirements. The University may also determine that an offeror is non-responsible, i.e., does not have the capacity in all respects to perform the work required. Should a proposal be judged not reasonably susceptible of being selected for award, or an offeror found not responsible, the proposal will not be considered further; offeror will be notified accordingly.

2. Proposals will be evaluated by an evaluation committee. The committee will recommend award to the responsible offeror whose proposal is determined to be the most advantageous to the University, considering both technical factors and price.

3. Award pursuant to this solicitation is final only upon approval by the appropriate office of the University and/or the State of Maryland, and contract execution on behalf of the University.

J. ALTERNATE PROPOSALS

Neither multiple nor alternate proposals will be accepted.

K. MINORITY BUSINESS ENTERPRISE UTILIZATION

1. MBE participation dollars and percentage goals (if any) will be established for each Task Order. The Contractor is responsible for meeting the established goal and complying with all applicable MBE requirements. MBE Affidavits, Forms, and Attachments are included in Exhibit D.

2. By submitting a response to this solicitation, the bidder or offeror agrees that these percentages of the total dollar amounts of the contract will be performed by certified minority business enterprises as specified.

    - A prime contractor — including an MBE prime contractor — shall accomplish an amount of work not less than the MBE subcontract goal with certified MBE subcontractors.

    - A prime contractor comprising a joint venture that includes MBE partner(s) shall accomplish the MBE subcontract goal with certified MBE subcontractors.

3. If this solicitation includes an MBE Goal, the Contractor shall:

    - Submit a report to the MBE Liaison officer once per quarter identifying all non-MBE subcontractor payments, MBE subcontractor payments, and all outstanding invoices for subcontractors. This shall include Contractor's self-performing work if such work can be counted towards MBE participation goals.
    - Maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of certified minority and non-minority subcontractors employed on the Contract, type of work performed by each, and actual dollar value of work performed. Subcontract agreements documenting the work performed by all MBE participants must be retained by the Contractor and furnished to the Procurement Officer on request.

4. A current directory of certified MBEs is available through the Maryland State Department of Transportation (MDOT), Office of Minority Business Enterprise. The directory is also available on the MDOT website at http://mbe.mdot.maryland.gov/directory/. **Only MDOT-Certified MBEs may be used to meet the MBE subcontracting goals.**

5. All documents completed and submitted by the Offeror in connection with its certified MBE participation commitment shall be considered a part of the Contract and are hereby expressly incorporated into the Contract by reference thereto.

6. When a certified MBE firm participates as a prime contractor on a Contract, a procurement agency may count the distinct, clearly-defined portion of the work of the Contract that the certified MBE firm performs with its own workforce toward fulfilling up to, but no more than, fifty-percent (50%) of the overall MBE participation goal.

L. LIQUIDATED DAMAGES PROVISION RELATED TO MBE GOAL

This contract requires the Contractor to make good faith efforts to comply with the Minority Business Enterprise ("MBE") Program and contract provisions. The University and the Contractor acknowledge and agree that the University will incur damages, including but not limited to, loss of goodwill, detrimental impact on economic development and diversion of internal staff resources if the Contractor does not make good faith efforts to comply with the requirements of the MBE Program and MBE contract provisions. The parties

further acknowledge and agree that the damages the University might reasonably anticipate to accrue as a result of such lack of compliance are difficult to ascertain with precision.

Therefore, upon a determination by the University that the Contractor failed to make good faith efforts to comply with one or more of the specified MBE Program requirements or contract provisions, the Contractor agrees to pay liquidated damages to the University at the rates set forth below. The Contractor expressly agrees that the University may withhold payment on any invoices as a set-off against liquidated damages owed. The Contractor further agrees that for each specified violation, the agreed upon liquidated damages are reasonably proximate to the loss the University is anticipated to incur as a result of such violation.

1. Failure to submit each monthly payment report in full compliance with COMAR 21.11.03.13B (3): $24.93 per day until the monthly report is submitted as required.

2. Failure to include in its agreements with MBE subcontractors a provision requiring submission of payment reports in full compliance with COMAR 21.11.03.13B (4): $ 87.24 per MBE subcontractor.

3. Failure to comply with COMAR 21.11.03.12 in terminating, canceling, or changing the scope of work/value of a contract with an MBE subcontractor and/or amendment of the MBE participation schedule: the difference between the dollar value of the MBE participation commitment on the MBE participation schedule for that specific MBE firm and the dollar value of the work performed by that MBE firm for the contract.

4. Failure to meet the Contractor's total MBE participation goal and sub-goal commitments: the difference between the dollar value of the total MBE participation commitment on the MBE participation schedule and the MBE participation actually achieved.

Notwithstanding the use of liquidated damages, the University reserves the right to terminate the contract and exercise all other rights and remedies provided in the contract or by law.

SECTION V. GENERAL INFORMATION FOR OFFERORS

A. PURPOSE

The purpose of this solicitation is to provide information to offerors interested in preparing and submitting proposals to meet the requirements contained herein. Offerors shall familiarize themselves with each section and subsection of this document.

B. ADDENDA TO THE RFP

The University reserves the right to amend this solicitation at any time prior to the proposal due date. If it becomes necessary to amend any part of this solicitation, the Procurement Officer will furnish addenda to all prospective offerors known to the University to have received a copy of the RFP.

Each Offeror shall acknowledge the receipt of all addenda issued by completing Exhibit J, Acknowledgement of Receipt of Addenda, and enclosing it with the technical proposal.

C. PRE-PROPOSAL MODIFICATION OR WITHDRAWAL OF OFFERS

Proposals may be modified or withdrawn by written notice received at the Issuing Office at any time before the proposal due date and time.

D. CANCELLATION OF SOLICITATION/REJECTION OF ALL PROPOSALS

The University reserves the right to cancel this solicitation, to accept or reject any or all proposals, in whole or in part, received in response to this solicitation, and to waive or permit cure of minor irregularities as its best interests may require.

E. DISCUSSIONS

The University reserves the right to conduct discussions with all qualified or potentially qualified offerors, in any matter necessary to serve its best interests. The University also reserves the right to award a contract based upon written proposals received, without discussions or negotiations.

F. ORAL PRESENTATIONS

Offerors may be required to make oral presentations to University representatives. The Procurement Office will provide notice of the time and place for presentations.

G. INCURRED EXPENSES

The University assumes no responsibility for expenses incurred by offeror in preparing and submitting a proposal, making an oral presentation, or participating in discussions or any other activity in response to this RFP.

H. ARREARAGES

By submitting a response to this RFP, offeror represents that it is not in arrears in the payment of any obligation due and owing the State of Maryland, including the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of the contract if selected for award.

I. VERIFICATION OF REGISTRATION AND TAX PAYMENT

Each prospective offeror is encouraged to ensure that it is appropriately registered to do business in the State of Maryland, and in good standing with respect to taxes, personal property returns, unemployment insurance, etc., before the closing date.

Failure to complete registration with the State Department of Assessments and Taxation (SDAT) may disqualify an otherwise successful offeror from recommendation for contract award.

J. ECONOMY OF PREPARATION

Proposals should be prepared simply and economically, providing a straight-forward, concise description of the offeror's ability to fulfill the requirements of this solicitation.

K. PUBLIC INFORMATION ACT NOTICE

Offeror shall give specific attention to identification of those portions of its proposal considered confidential, or containing proprietary information or trade secrets. Upon request, offeror shall provide justification why such material should not be disclosed by the University under the Public Information Act, Title 4, Subtitle 3 of the General Provisions Article, Annotated Code of Maryland.

L. EXECUTION OF PROPOSALS

Proposals shall be typewritten or written legibly in ink, and signed in ink as follows, depending on the offeror's form of business organization:

1. Sole Proprietorship. Proprietor shall sign full name, with address.

2. Partnership and Joint Venture. Submit the proposal in the name of the partnership or joint venture. Clearly state the partnership name and the identity of each general partner, and execute all affidavits and certificates on behalf of the partnership, or on behalf of each general partner. No provision of any agreement among partners will be binding on the University unless it is disclosed in the offeror's proposal. Reasonable evidence satisfactory to the University of the authority of one partner to bind other purported partners is required. It is recommended that the proposal contain a copy of the partnership agreement, if one exists. If no partnership agreement exists, and if the number of general partners is reasonably small, each general partner should execute all required documents included in the proposal. At the University's option, all general partners may be required to sign the proposal. Failure to present the University with satisfactory information concerning a purported partnership or joint venture may be grounds for finding a proposal unacceptable.

3. Corporation. An officer or authorized agent of the corporation shall sign with full name, indicate title, and include the name and address of the corporation. In the case of an authorized agent, enclose a letter from an officer of the corporation authorizing said individual to act on behalf of the corporation.

M. DISCREPANCIES, EXPLANATIONS AND CLARIFICATIONS

Should offeror find discrepancies in the specifications or other provisions included in this solicitation, or be in doubt as to the meaning or intent of any section or subsection herein, offeror shall request clarification from the Procurement Officer. Failure to request clarification prior to the due date shall be a waiver of any claim by the offeror for expenses made necessary by reason of later interpretation of the contract documents, and offeror shall be bound to the University's interpretation. Request clarifications in accordance with the instructions provided in Section IV.D-Questions and Inquires.

N. ORDER OF PRECEDENCE

The contract to be entered into as a result of the RFP ("Contract") will consist of the following Contract Documents, listed in their order of precedence:

1. The contract executed by the parties and/or Purchase Order issued by the University;
2. The solicitation, included as Exhibit L (Required Contract Provisions) and all other exhibits; and
3. Offeror's proposal.

No modifications to this order of precedence will be accepted.

O. REQUIRED CONTRACT PROVISIONS

By submitting a proposal, offeror is deemed to have accepted the terms of this RFP, including exhibits; a proposal that takes exception to the terms of the RFP may be rejected. Exceptions, if any, shall be clearly identified in the Transmittal Letter enclosed with the technical proposal. Mutually agreeable modifications of the solicitation provisions, if allowed by law, will be documented by express identification in the final contract as superseding the pertinent provisions of the solicitation.

P. OFFEROR RESPONSIBILITIES

The successful offeror shall be responsible for all products and services required by this RFP. Subcontractors, if any, shall be identified and a complete description of their role relative to the project shall be identified.

Q. FALSE STATEMENTS

Offerors are advised that the Annotated Code of Maryland provides that in connection with a procurement contract, a person may not willfully: Falsify, conceal or suppress a material fact by any scheme or device; make a false or fraudulent statement or representation of a material fact; use a false writing or document that contains a false or fraudulent statement or entry of a material fact; or aid or conspire with another person to commit any of the aforementioned acts. A person who violates these provisions is guilty of a felony, and on conviction is subject to a fine not exceeding $20,000 or imprisonment not exceeding five (5) years, or both.

R. PAYMENT TO THE CONTRACTOR; TAXES

Payment is governed by Title 15, Subtitle 1 of the State Finance and Procurement Article, Annotated Code of Maryland. The State of Maryland is exempt from Maryland Retail Sales Tax and Federal Excise Tax.

S. PRESS RELEASES

The successful offeror shall issue no press release to any publication, including newspapers, with regard to work being conducted under this contract.

T. RECIPROCAL PREFERENCE

While Maryland law does not authorize state agencies to favor resident offerors, some other states grant preferences to their residents over Maryland businesses. Therefore, a resident business preference may be

given to a Maryland firm if: A responsible offeror whose headquarters, principal base of operations, or principal site that will provide the services required by this RFP is located in another state submits the most advantageous offer; the other state gives a preference to its residents through law, policy, or practice; and the preference does not conflict with a Federal law or grant affecting the contract. The preference given shall be identical to the preference that the other state gives to its residents.

U. NON-VISUAL ACCESS

The Contractor shall ensure compliance in any applicable contract with State of Maryland IT Non-Visual Access Standards. The standards should be incorporated to the fullest extent possible for information technology contracts. These standards/policies may be revised from time to time and the Contractor shall comply with all such revisions. The Non-visual Access Clause noted in COMAR 21.05.08.05 and referenced in this RFP is the basis for the standards that have been incorporated in the Maryland regulations.

V. INTERGOVERNMENTAL COOPERATIVE PURCHASING

The University reserves the right to extend the terms, conditions, and prices of the contract awarded pursuant to this solicitation to other institutions of the University System of Maryland, and to other state educational institutions (e.g., St. Mary's College, Morgan State University, and Baltimore City Community College) and public agencies with similar requirements. Each such entity will issue its own purchasing documents; the University assumes no contractual obligations on behalf of other users of its contracts. The forgoing applicability of terms, covenants, and conditions to future contracts is intended to provide consistency in contracts among contractors. It is not intended to preclude an institution from negotiating terms unique to its specific need or circumstances.

W. PARKING

All vehicles parked on University property shall strictly observe University parking regulations. Each vehicle parked on campus between 6 am and 8 pm, Monday through Thursday, and from 6 am to 3 pm on Fridays, shall display a valid University permit unless parked at a paid meter. Parking on sidewalks or unpaved areas is prohibited at all times. All fines for parking or other vehicle violations are the responsibility of the Contractor. This applies to vendors, salespersons, company vehicles, and Contractor employees' personal vehicles. Long- and short-term permits are available, at designated rates, for vendors with contracts that require them to park regularly on the campus; see the parking website at https://parking.umbc.edu/ for permit rates and information to support preparation of Bid/Price Proposal. Parking Transportation phone: 410-455-2251. **NOTE: Include parking fees in Bid/Price Proposal.**

X. SMOKING

Smoking, defined as the burning of tobacco or any other material in any type of smoking equipment, including but not restricted to cigarettes, cigars or pipes, is prohibited on all property owned, leased or operated by the University. This consists of all buildings, including residence halls, leased restaurants and lodging facilities; all grounds, including exterior open spaces, parking lots and garages, on-campus sidewalks, streets, driveways, stadiums, recreational spaces and practice facilities; and in all University- owned or leased vehicles. The policy applies to all individuals on the University campus, including faculty, staff, students, parents, vendors and visitors. Contractor and its employees and subcontractors who violate the policy may be denied access to the University campus.

Exhibit A: Pre-Proposal Conference Response Form

Solicitation Title:_____
Solicitation #:_____
Bidder/Offeror Name:_____

See the Key Information Summary Sheet for the date and time for the Pre-Bid/Pre-Proposal Conference. Please return this form by the due date noted for the RSVP, advising whether or not your firm plans to attend. The completed form should be returned via e-mail to the Procurement Officer at the contact information below:

Nneka Miller, Contract Administrator
University of Maryland, Baltimore County
Procurement and Strategic Sourcing
nmiller7@umbc.edu

Please indicate:

_____Yes, the following representatives will be in attendance.
Attendees (Check the RFP for limits to the number of attendees allowed):
1.
2.
3.
_____ No, we will not be in attendance.

Please specify whether any reasonable accommodations are requested (see IFB § 4.1"Pre-Proposal conference"):

Offeror: _____

By: _____
(Signature)

Printed Name: _____

Title: _____

Date: _____

Exhibit B: Offeror Information Sheet

Bidder/Offeror Information	
Company Name	
Street Address	
City, State, Zip	
Federal Identification Number	
SBE/MBE/VSBE Certification (If Applicable)	
SBE	Number: Expiration Date:
VSBE	Number: Expiration Date:
MBE	Number: Expiration Date: Categories (dual certified must select one):
Primary Point of Contact	
Name & Title	
Office Phone	
Cell Phone	
Email Address	
Authorized Signatory (if different than Primary POC)	
Name & Title	
Office Phone	
Email Address	

SUBMIT THIS FORM WITH PROPOSAL

Exhibit C: Proposal Price Instructions & Sample Form

In order to assist each Offeror in the preparation of its Proposal and to comply with the requirements of this solicitation, Proposal Instructions and a Proposal Form have been prepared. Each Offeror shall submit its Proposal on the Proposal Form in accordance with the instructions on the Proposal Form and as specified herein. Do not alter the Proposal Form or the Proposal may be determined to be not responsive. The Proposal Form is to be signed and dated, where requested, by an individual who is authorized to bind the Offeror to the prices entered on the Proposal Form.

1. All Unit and Extended Prices must be clearly entered in dollars and cents, e.g., $24.15. Make your decimal points clear and distinct.
2. All Unit Prices must be the actual price per unit UMBC will pay for the specific item or service identified in this RFP and may not be contingent on any other factor or condition in any manner.
3. All calculations shall be rounded to the nearest cent, e.g., .344 shall be .34 and .345 shall be .35.
4. Any goods or services required through this RFP and proposed by the vendor at **No Cost to UMBC** must be clearly entered in the Unit Price, if appropriate, and Extended Price with **$0.00**.
5. Every blank in every Proposal Form shall be filled in. Any changes or corrections made to the Proposal Form by the Offeror prior to submission shall be initialed and dated.
6. Except as instructed on the Proposal Form, nothing shall be entered on or attached to the Proposal Form that alters or proposes conditions or contingencies on the prices. Alterations and/or conditions may render the Proposal not responsive.
7. It is imperative that the prices included on the Proposal Form have been entered correctly and calculated accurately by the Offeror and that the respective total prices agree with the entries on the Proposal Form.
8. All Proposal prices entered below are to be fully loaded prices that include all costs/expenses associated with the provision of services as required by the RFP. The Proposal price shall include, but is not limited to, all: labor, profit/overhead, general operating, administrative, and all other expenses and costs necessary to perform the work set forth in the solicitation. No other amounts will be paid to the Contractor. If labor rates are requested, those amounts shall be fully-loaded rates; no overtime amounts will be paid.
9. Unless indicated elsewhere in the RFP, sample amounts used for calculations on the Proposal Form are typically estimates for evaluation purposes only. Unless stated otherwise in the RFP, UMBC does not guarantee a minimum or maximum number of units or usage in the performance of the Contract.
10. Failure to adhere to any of these instructions may result in the Proposal being determined not responsive.

Price Proposal Form - DO NOT SUBMIT THIS FORM WITH TECHNICAL PROPOSAL

OFFEROR NAME: _____

1. Quoted Hourly Billing Rate for the following positions:

Position	Regular Hourly Rate	2nd Shift Hourly Rate (if applicable)	Overtime Hourly Rate
Project Manager			
Foreman/Superintendent	$_____	$_____	$_____
Journeyman Plumber	$_____	$_____	$_____
Journeyman Steamfitter	$_____	$_____	$_____
Certified Welder	$_____	$_____	$_____
Apprentice	$_____	$_____	$_____
Laborer	$_____	$_____	$_____
Equipment Operator	$_____	$_____	$_____
Bobcat/Trencher Rental	$_____	$_____	$_____
Backhoe/Loader/Dump truck rental	$_____	$_____	$_____
Crane rental	$_____	$_____	$_____

2. On Call Underground Mechanical Utilities Maintenance's Equipment (Rental) Mark-up Percentage: _____%

   If awarded, Proposer to provide all back-up quotes for equipment (rental) on all awarded task orders.

3. On Call Underground Mechanical Utilities Maintenance's Material Mark-up Percentage: _____%

   If awarded, Proposer to provide all back-up quotes for materials and all awarded task orders.

4. Trade Work to be performed by a subcontractor to the On Call Underground Mechanical Utility Maintenance: Provide a quoted percentage mark-up that will apply to any quoted subcontractor costs.

   Subcontractor's Mark-up/Percentage: _____%

   If awarded, Proposer to provide all back-up quotes for subcontractors used on all awarded task orders.

Notes:

- Pricing should reflect the full cost of ownership over the proposed contract term.
- Clearly specify any optional modules or services, along with their pricing.
- Indicate any available discounts for multi-year agreements or education/government pricing.
- UMBC reserves the right to negotiate final pricing based on proposal evaluation.
- Rentals reimbursed at actual rental rate. A copy of the rental price quote must be supplied.

We understand that by submitting a proposal we are agreeing to all of the terms and conditions included in the RFP documents, and that the Bid/Proposal Affidavit submitted as part of the original technical proposal remains in effect. The evaluation and subsequent final ranking of proposals will be in accordance the RFP documents. We understand that technical weighs greater than cost.

We further understand that this Price Proposal includes all costs associated with the provision of the Services per this RFP. We understand that the University reserves the right to award a contract (or contracts) for all items, or any parts thereof, as set forth in detail under the information furnished in the RFP document.

We further confirm that the key personnel named within our Technical Proposal will be assigned to the UMBC Contract for the duration of this contract. We understand that no changes in this assignment will be allowed without written authorization from the University prior to such changes being made.

Offeror: _____

Company Name

By: _____

Printed Name *Signature*

Title _____

Date

Minority Business Enterprise (MBE) Participation Goal

4.1 Establishment of Goal and Subgoals

An overall Minority Business Enterprise (MBE) subcontractor participation goal as identified in the solicitation's Key Information Summary Sheet (KISS) has been established for this procurement, representing a percentage of the total Contract dollar value, including all renewal option terms, if any.

Notwithstanding any subgoals established for this procurement, the Contractor is encouraged to use a diverse group of subcontractors and suppliers from any/all the various MBE classifications to meet the remainder of the overall MBE participation goal.

By submitting a response to this solicitation, the Bidder/Offeror acknowledges the overall MBE participation goal and subgoals and commits to achieving the overall goal and subgoals by utilizing certified MBEs, or requests a full or partial waiver of the overall goal and/or subgoals.

If a bidder or offeror fails to complete accurately or submit Attachment D-1A, MBE Utilization and Fair Solicitation Affidavit and MBE Participation Schedule, an agency's procurement officer, after consultation with the agency's minority business liaison, shall notify the bidder or offeror of the deficiency and require the bidder or offeror to submit an amended MBE Utilization and Fair Solicitation Affidavit, MBE Participation Schedule, or both within three business days.

If, within three business days, the bidder or offeror fails to submit the amended form or forms correcting the deficiency identified, the procurement officer may determine, in the case of a bid, that the bid is not responsive or, in the case of a proposal, that the proposal is not reasonably susceptible of being selected for award.

A Bidder or Offeror must accurately complete and submit a separate Attachment D-1A, MBE Utilization and Fair Solicitation Affidavit and MBE Participation Schedule, for EACH Functional Area (I and II), if applicable, for which it is submitting a bid or proposal. If a Bidder or Offeror is submitting a bid or proposal for each of Functional Area I and II, the Bidder or Offeror must submit two separate Attachment D-1As, one for each of the two Functional Areas.

A Bidder or Offeror that does not commit to meeting the entire MBE participation goal outlined in the solicitation must select and request a waiver with its bid or proposal submission (see Attachment D for waiver forms).

4.2. Attachments

a) D-1 to D-5 – The following Minority Business Enterprise participation instructions, and forms are provided to assist Bidders/Offerors:

1. Attachment D-1A MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule (must be submitted with Bid/Proposal) (*See* Appendix 4A for instructions to complete this form)
2. Attachment D-1B Waiver Guidance
3. Attachment D-1C Good Faith Efforts Documentation to Support Waiver Request
4. Attachment D-2 Outreach Efforts Compliance Statement
5. Attachment D-3A MBE Subcontractor Project Participation Certification

6. Attachment D-3B MBE Prime Project Participation Certification
7. Attachment D-4A Prime Contractor Paid/Unpaid MBE Invoice Report
8. Attachment D-4B MBE Prime Contractor Report
9. Attachment D-5 Subcontractor Paid/Unpaid MBE Invoice Report

The Bidder/Offeror shall include with its Bid/Proposal a completed MBE Utilization and Fair Solicitation Affidavit (**Attachment D-1A**) whereby:

1. The Bidder/Offeror acknowledges the certified MBE participation goal and commits to make a good faith effort to achieve the goal and any applicable subgoals, or requests a waiver, and affirms that MBE subcontractors were treated fairly in the solicitation process; and
2. The Bidder/Offeror responds to the expected degree of MBE participation, as stated in the solicitation, by identifying the specific commitment of certified MBEs at the time of Bid/Proposal submission. The Bidder/Offeror shall specify the percentage of total contract value associated with each MBE subcontractor identified on the MBE participation schedule, including any work performed by the MBE prime (including a prime participating as a joint venture) to be counted towards meeting the MBE participation goals.
3. The Bidder/Offeror requesting a waiver should review **Attachment D-1B** (Waiver Guidance) and **D-1C** (Good Faith Efforts Documentation to Support Waiver Request) prior to submitting its request.

Bidders/Offerors are responsible for verifying that each MBE (including any MBE prime and MBE prime participating in a joint venture) selected to meet the goal and any subgoals and subsequently identified in Attachment D-1A is appropriately certified and has the correct NAICS codes allowing it to perform the committed work.

Within ten (10) Business Days from notification that it is the recommended awardee or from the date of the actual award, whichever is earlier, the Bidder/Offerors must provide the following documentation to the Procurement Officer:

a) Outreach Efforts Compliance Statement (**Attachment D-2**);

b) MBE Subcontractor/Prime Project Participation Certification (**Attachment D-3A/3B**); and

c) Any other documentation required by the Procurement Officer to ascertain Bidder/Offeror responsibility in connection with the certified MBE subcontractor participation goal or any applicable subgoals.

d) A recommended awardee that requested a waiver of the goal or any of the applicable subgoals (in whole or in part) will be responsible for submitting the Good Faith Efforts Documentation to Support Waiver Request (**Attachment D-1C**) and all documentation, within ten (10) Business Days from notification that it is the recommended awardee or from the date of the actual award, whichever is earlier, as required in COMAR 21.11.03.11.

If the recommended awardee fails to return each completed document within the required time, the Procurement Officer may determine that the recommended awardee is not responsible and, therefore, not eligible for Contract award. If the Contract has already been awarded, the award is voidable.

A current directory of certified MBEs is available in the State MBE Directory.

All documents, including the MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule (Attachment D-1A), completed and submitted by the Bidder/Offeror in connection with its certified MBE participation commitment shall be considered a part of the Contract and are hereby expressly incorporated into the Contract by reference thereto. All of the referenced documents will be considered a part of the Bid/Proposal for order of precedence purposes (see Exhibit 2 – Sample Contract).

As set forth in COMAR 21.11.03.12-1(D), when a certified MBE firm participates on a contract as a prime contractor (including a joint-venture where the MBE firm is a partner), a procurement agency may count the distinct, clearly defined portion of the work of the contract that the certified MBE firm performs with its own work force towards fulfilling up to fifty-percent (50%) of the MBE participation goal (overall) and up to one hundred percent (100%) of not more than one of the MBE participation subgoals, if any, established for the contract. (e.g., if the contract has a 5% MBE goal, the prime contractor can self-perform up to 2.5% of the goal)

As set forth in COMAR 21.11.03.12-1, once the Contract work begins, the work performed by a certified MBE firm, including an MBE prime, can only be counted towards the MBE participation goal(s) if the MBE firm is performing a commercially useful function on the Contract. Refer to MBE forms (**Attachment D**) for additional information.

4.3. Minority Business Enterprise (MBE) Reports

If this solicitation includes an MBE Goal (see **Key Information Summary Sheet**), the Contractor shall:

a) Submit the following reports to the Contract Monitor and the MBE Liaison Officer:

1) A Prime Contractor Paid/Unpaid MBE Invoice Report (**Attachment D-4A**) Certified MBE subcontractors are required to submit to the procurement agency a report for each month during which the MBE performs work or receives payment under the contract. Monthly payment reporting requirements do not apply when the MBE subcontractor is not actively engaged in its designated phase of work, has completed its contractual work, or has no outstanding invoices to be paid; and

2) (If Applicable) An MBE Prime Contractor Report (**Attachment D-4B**) identifying an MBE prime's self-performing work to be counted towards the MBE participation goals.

b) Include in its agreements with its certified MBE subcontractors a requirement that those subcontractors submit an MBE Subcontractor Paid/Unpaid Invoice Report (**Attachment D-5**) to the Contract Monitor and the MBE Liaison Officer that identifies the Contract and lists all payments to the MBE subcontractor received from the Contractor in the preceding reporting period month, as well as any outstanding invoices, and the amounts of those invoices.

c) Maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of certified minority and non-minority subcontractors employed on the Contract, type of work performed by each, and actual dollar value of work performed. Subcontract agreements documenting the work performed by all MBE participants must be retained by the Contractor and furnished to the Procurement Officer on request.

d) Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the MBE participation obligations. Contractor must retain all records concerning MBE participation and make them available for State inspection for three years after final completion of the Contract.

e) Upon completion of the Contract and before final payment and release of retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

Attachment D-1A
Minority Business Enterprise (MBE) Utilization and Fair Solicitation Affidavit & MBE Participation Schedule

If a bidder or offeror fails to complete accurately or submit the MBE utilization affidavit or MBE participation schedule, an agency's procurement officer, after consultation with the agency's minority business liaison, shall notify the bidder or offeror of the deficiency and require the bidder or offeror to submit an amended MBE utilization affidavit, MBE participation schedule, or both within three business days.

If, within three business days, the bidder or offeror fails to submit the amended form or forms correcting the deficiency identified, the procurement officer may determine, in the case of a bid, that the bid is not responsive or, in the case of a proposal, that the proposal is not reasonably susceptible of being selected for award.

For detailed instructions on completing this Affidavit, please refer to Appendix 4A of the solicitation.

Part 1 – MBE Utilization and Fair Solicitation Affidavit

Solicitation Number: _____

Solicitation MBE Goal: _____

Solicitation Subgoals (If subgoals do not apply, please input 'NA' for each field)**:**

_____ % African American-Owned MBE Firms

_____ % Hispanic American-Owned MBE Firms

_____ % Asian American-Owned MBE Firms

_____ % Women-Owned MBE Firms

IN CONNECTION WITH THE BID/PROPOSAL SUBMITTED IN RESPONSE TO THE SOLICITATION INDICATED ABOVE, I AFFIRM THE FOLLOWING MBE PARTICIPATION:

☐ I acknowledge and intend to **MEET IN FULL OR EXCEED both the overall certified Minority Business Enterprise (MBE) participation goal and all applicable subgoals.** Therefore, I am not seeking a waiver pursuant to COMAR 21.11.03.11. I acknowledge that by selecting and agreeing to meet the stated goal and all applicable subgoals (if any), I must complete the MBE Participation Schedule (Part 2) and the Signature Page (Part 3) to be considered for award.

OR

☐ After making good faith outreach efforts prior to making this submission, I conclude that I am **unable to achieve the MBE participation goal and/or subgoals.** I hereby request a waiver, in whole or in part, of the overall goal and/or subgoals. Access Waiver Guidance here.

I acknowledge that by requesting a *partial* waiver of the stated goal and/or one or more of the stated subgoals (if any), I must complete the MBE Participation Schedule (Part 2) and the Signature Page (Part 3) for the portion of the goal and/or subgoal for which I am not seeking a waiver in order to be considered for award. Similarly, I acknowledge that by requesting a *full* waiver of the stated goal and the stated subgoals (if any), I must complete the Signature Page (Part 3) to be considered for award.

Attachment D-1A
Minority Business Enterprise (MBE) Utilization and Fair Solicitation Affidavit & MBE Participation Schedule

Part 2 – MBE Participation Schedule

For detailed instructions on completing this participation schedule, please refer to Appendix 4A of the solicitation.

Note: MBE Prime Contractors, who are self-performing, must complete both Section A and Section B.

Prime Contractor	
Project/Solicitation Number	
Project Description	

SECTION A: For MBE Primes ONLY (including MBE Primes in a Joint Venture)

MBE Prime Name:

MBE Certification Number: _____

NAICS: _____

MBE Prime Classification:
If the MBE Prime is counting its self-performed work towards any subgoal, select the appropriate classification for the subgoal:

- ○ African American
- ○ Hispanic American
- ○ Asian American
- ○ Native American
- ○ Women-Owned
- ○ Other MBE Classification

Brief description of the work to be performed by MBE Prime Contractor:

Section A1 (MBE Prime Self-Performance):
The percentage of total contract value to be performed with your own forces and counted towards the overall MBE goal cannot exceed 50% of the overall goal. For example, if an overall goal is set at 20%, an MBE Prime may perform a maximum of 10% of the overall goal (50% of the established 20% goal). Details.

Percentage of Total Contract Value to Be Performed by MBE Prime *(auto-calculation)*:

Overall Participation Goal 0.00 %

✖ _____% (50% max) = 0.00

Category of Work and Calculations:

Select one category that applies to the type of work your firm is self-performing to calculate the amount being counted towards achieving the MBE Participation Goal(s):

○ **Supplier, Wholesaler, and/or Regular Dealer** (count 60%)
Enter the percentage amount for work in which the MBE Prime is being utilized in this category. The percentage entered should match that of the 50% maximum overall participation goal computed in Section A1. [Details]

Total Percentage as Supplier: _____% ✖ 60% = _____%

○ **Manufacturer** (count 100%)
Enter the percentage amount for work in which the MBE Prime is being utilized in this category. The percentage entered should match that of the 50% maximum overall participation goal computed in Section A1. [Details]

Total Percentage as Manufacturer: _____%

○ **Furnish & Install and/or Other Services** (count 100%)
Enter the percentage amount for work in which the MBE Prime is being utilized in this category. The percentage entered should match that of the 50% maximum overall participation goal computed in Section A1. [Details]

Total Percentage as Furnish & Install/Other Services: _____%

○ **Broker** (count reasonable fees / commission only)
Enter the percentage amount for work in which the MBE Prime is being utilized in this category. [Details]

Total Percentage as a Broker: _____%

Attachment D-1A
Minority Business Enterprise (MBE) Utilization and Fair Solicitation Affidavit & MBE Participation Schedule

SECTION B: For ALL MBE Subcontractors and Third-Tier Contractors

MBE Firm Name:

MBE Certification Number:

NAICS:

MBE Firm Email Address:

MBE Classification(Select All That Apply):

- ☐ African American-Owned
- ☐ Hispanic American-Owned
- ☐ Asian American-Owned
- ☐ Native American-Owned
- ☐ Women-Owned
- ☐ Other MBE Classification

Brief **description of the work** to be performed by MBE Firm:

Indicate Subcontractor Type:

○ This MBE firm is a subcontractor

○ This MBE firm is a third-tier contractor
Third-tier subcontracting requires either preapproval as specified in the solicitation or separate written approval in accordance with policy. [Details]

This third-tier contractor will be working with this subcontractor:

Percentage of Total Contract Value to Be Performed by MBE Firm:

Participation Goal for MBE Firm: _____%

Category of Work and Calculations:

Select one category that applies to the type of work this subcontractor is performing to calculate the amount being counted towards achieving the MBE Participation Goal(s):

○ **Supplier, Wholesaler, and/or Regular Dealer** (count 60%)
Enter the percentage amount for work in which the subcontractor is being utilized in this category. The percentage entered should match that of the participation goal entered for this MBE Firm above. [Details]

Total Percentage as Supplier: _____% ✖ 60% = _____%

○ **Manufacturer** (count 100%)
Enter the percentage amount for work in which the subcontractor is being utilized in this category. The percentage entered should match that of the participation goal entered for this MBE Firm above. [Details]

Total Percentage as Manufacturer: _____%

○ **Furnish & Install and/or Other Services** (count 100%)
Enter the percentage amount for work in which the subcontractor is being utilized in this category. The percentage entered should match that of the participation goal entered for this MBE Firm above. [Details]

Total Percentage as Furnish & Install/Other Services: _____%

◉ **Broker** (count reasonable fees / commission only)
Enter the percentage amount for work in which the subcontractor is being utilized in this category. [Details]

Total Percentage as a Broker: _____%

Prime Contractor's Attestation to Subcontractor Engagement:

◉ As Prime Contractor, I acknowledge and attest to having engaged with the listed MBE and intend to continue engagement if this solicitation results in the award of a contract. As Prime Contractor, I agree to State check-ins to verify subcontractor engagement.

For instructions and applicable worksheets to assist in completing any part of this D-1A form, including worksheets and/or tutorials to calculate percentages for MBEs being utilized in certain job categories (i.e. 60% Rule), please refer to Appendix 4A of the solicitation.

Attachment D-1A
Minority Business Enterprise (MBE) Utilization and Fair Solicitation Affidavit & MBE Participation Schedule

SECTION B: For ALL MBE Subcontractors and Third-Tier Contractors

MBE Firm Name:

MBE Certification Number: _____

NAICS: _____

MBE Firm Email Address:

MBE Classification(Select All That Apply):

- ☐ African American-Owned
- ☐ Hispanic American-Owned
- ☐ Asian American-Owned
- ☐ Native American-Owned
- ☐ Women-Owned
- ☐ Other MBE Classification

Brief **description of the work** to be performed by MBE Firm:

Indicate Subcontractor Type:

- ◯ This MBE firm is a subcontractor
- ◯ This MBE firm is a third-tier contractor
  Third-tier subcontracting requires either preapproval as specified in the solicitation or separate written approval in accordance with policy. [Details]

  This third-tier contractor will be working with this subcontractor:

Percentage of Total Contract Value to Be Performed by MBE Firm:

Participation Goal for MBE Firm: _____%

Category of Work and Calculations:

Select one category that applies to the type of work this subcontractor is performing to calculate the amount being counted towards achieving the MBE Participation Goal(s):

- ◯ **Supplier, Wholesaler, and/or Regular Dealer** (count 60%)
  Enter the percentage amount for work in which the subcontractor is being utilized in this category. The percentage entered should match that of the participation goal entered for this MBE Firm above. [Details]

  Total Percentage as Supplier: _____% ✖ 60% = _____%

- ◯ **Manufacturer** (count 100%)
  Enter the percentage amount for work in which the subcontractor is being utilized in this category. The percentage entered should match that of the participation goal entered for this MBE Firm above. [Details]

  Total Percentage as Manufacturer: _____%

- ◉ **Furnish & Install and/or Other Services** (count 100%)
  Enter the percentage amount for work in which the subcontractor is being utilized in this category. The percentage entered should match that of the participation goal entered for this MBE Firm above. [Details]

  Total Percentage as Furnish & Install/Other Services: _____%

- ◯ **Broker** (count reasonable fees / commission only)
  Enter the percentage amount for work in which the subcontractor is being utilized in this category. [Details]

  Total Percentage as a Broker: _____%

Prime Contractor's Attestation to Subcontractor Engagement:

- ◉ As Prime Contractor, I acknowledge and attest to having engaged with the listed MBE and intend to continue engagement if this solicitation results in the award of a contract. As Prime Contractor, I agree to State check-ins to verify subcontractor engagement.

To list additional MBE firms as part of Section B within Part 2 – MBE Participation Schedule, please add continuation sheets of this page (Page 2, Section B) to this section as needed and select the box below. Additional pages of this section are available for download here. Submit each additional page as a separate attachment. Do not combine pages into a single file.

☐ **Select this box if you are adding continuation sheets to list additional MBE firms.**

For instructions and applicable worksheets to assist in completing any part of this D-1A form, including worksheets and/or tutorials to calculate percentages for MBEs being utilized in certain job categories (i.e. 60% Rule), please refer to Appendix 4A of the solicitation.

Part 3 – Signature Page

To Complete the Affidavit and Participation Schedule Committing to MBE(s) or Requesting a Waiver, the Bidder/Offeror Must Sign Below:

I solemnly affirm under the penalties of perjury that:

i. **I have reviewed the instructions for the MBE Utilization & Fair Solicitation Affidavit and MBE Participation Schedule;**

ii. **All MBE certified firms listed have consented to be included in this bid or proposal;**

iii. **The information contained in the MBE Utilization & Fair Solicitation Affidavit and MBE Participation Schedule is true to the best of my knowledge, information, and belief; and**

iv. **I acknowledge and commit to meeting the MBE participation goal as indicated on this completed participation schedule and stated below.**

Total MBE Commitment %

Bidder/Offeror Name (Print or Type)

Signature of Authorized Representative

Address

Printed Name and Title

City, State, and ZIP Code

Date

SAMPLE - SUBMIT THIS ENTIRE COMPLETED FORM WITH YOUR BID/PROPOSAL

Exhibit D. Minority Business Enterprise (MBE) Forms

Additional MBE Documentation

I understand if I am notified that I am the apparent awardee or as requested by the Procurement Officer, I must submit the following documentation within 10 working days of receiving notice of the potential award or from the date of conditional award (per COMAR 21.11.03.10), whichever is earlier:

(a) Good Faith Efforts Documentation to Support Waiver Request (Attachment D-1C)

(b) Outreach Efforts Compliance Statement (Attachment D-2);

(c) Certified MBE Subcontractor/MBE Prime Project Participation Certification (Attachments D-3A and D-3B);

(d) MBE Subcontractor agreement(s);

(e) Any other documentation, including additional waiver documentation if applicable, required by the Procurement Officer to ascertain the Bidder/Offeror's responsibility in connection with the certified MBE participation goal and subgoals, if any.

I understand that if I fail to return each completed document within the required time, the Procurement Officer may determine that I am not responsible and therefore not eligible for contract award. If the contract has already been awarded, the award is voidable.

Information Provided to MBE Firms

In the solicitation of subcontract quotations or offers, MBE firms were provided not less than the same information and amount of time to respond as were non-MBE firms.

Signature of Prime Contractor:	
Title:	Date:

D-1B WAIVER GUIDANCE

GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET MBE PARTICIPATION GOALS

In order to show that it has made good faith efforts to meet the Minority Business Enterprise (MBE) participation goal (including any MBE subgoals) on a contract, the Bidder/Offeror must either (1) meet the MBE Goal(s) and document its commitments for participation of MBE Firms, or (2) when it does not meet the MBE Goal(s), document its Good Faith Efforts to meet the goal(s).

I. Definitions

MBE Goal(s) – "MBE Goal(s)" refers to the MBE participation goal and MBE participation subgoal(s).

Good Faith Efforts - The "Good Faith Efforts" requirement means that when requesting a waiver, the Bidder/Offeror must demonstrate that it took all necessary and reasonable steps to achieve the MBE Goal(s), which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient MBE participation, even if those steps were not fully successful. Whether the Bidder/Offeror that requests a waiver made adequate good faith efforts will be determined by considering the quality, quantity, and intensity of the different kinds of efforts that the Bidder/Offeror has made. The efforts employed by the Bidder/Offeror should be those that one could reasonably expect the Bidder/Offeror to take if the Bidder/Offeror were actively and aggressively trying to obtain MBE participation sufficient to meet the MBE contract goal and subgoals. Mere *pro forma* efforts are not good faith efforts to meet the MBE contract requirements. The determination concerning the sufficiency of the Bidder's/Offeror's good faith efforts is a judgment call; meeting quantitative formulas is not required.

Identified Firms – "Identified Firms" means a list of the MBEs identified by the procuring agency during the goal setting process and listed in the procurement as available to perform the Identified Items of Work. It also may include additional MBEs identified by the Bidder/Offeror as available to perform the Identified Items of Work, such as MBEs certified or granted an expansion of services after the procurement was issued. If the procurement does not include a list of Identified Firms, this term refers to all of the MBE Firms (if State-funded) the Bidder/Offeror identified as available to perform the Identified Items of Work and should include all appropriately certified firms that are reasonably identifiable.

Identified Items of Work – "Identified Items of Work" means the Proposal items identified by the procuring agency during the goal setting process and listed in the procurement as possible items of work for performance by MBE Firms. It also may include additional portions of items of work the Bidder/Offeror identified for performance by MBE Firms to increase the likelihood that the MBE Goal(s) will be achieved. If the procurement does not include a list of Identified Items of Work, this term refers to all of the items of work the Bidder/Offeror identified as possible items of work for performance by MBE Firms and should include all reasonably identifiable work opportunities.

MBE Firms – "MBE Firms" refers to firms certified by the State of Maryland through the Maryland Department of Social and Economic Mobility's ("DoSEM") Office of Minority Business Enterprise under COMAR 21.11.03. Only certified MBE Firms can participate in the State's MBE Program.

II. Types of Actions Agency will Consider

The Bidder/Offeror is responsible for making relevant portions of the work available to MBE subcontractors and suppliers and selecting those portions of the work or material needs consistent with the available MBE subcontractors and suppliers, so as to facilitate MBE participation. The following is a list of types of actions the procuring agency will consider as part of the Bidder's/Offeror's Good Faith Efforts when the Bidder/Offeror fails to meet the MBE Goal(s). This list is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

A. Identify Proposal Items as Work for MBE Firms

1. Identified Items of Work in Procurements

   (a) Procurements will include a list of subcontracting opportunities identified during the goal setting process as possible work for performance by MBE Firms. The Bidder/Offeror shall make all reasonable efforts to solicit quotes from MBE Firms to perform that work.

   (b) Bidders/Offerors may, and are encouraged to, select additional items of work to be performed by MBE Firms to increase the likelihood that the MBE Goal(s) will be achieved.

2. Identified Items of Work by Offerors

(a) When the procurement does not include a list of Identified Items of Work or for additional Identified Items of Work, Bidders/Offerors should reasonably identify sufficient items of work to be performed by MBE Firms.

(b) Where appropriate, Bidders/Offerors should break out contract work items into economically feasible units to facilitate MBE participation, rather than perform these work items with their own forces. The ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the Bidder/Offeror of the responsibility to make Good Faith Efforts.

B. Identify MBE Firms to Solicit

1. MBE Firms Identified in Procurements

(a) Certain procurements will include a list of the MBE Firms identified during the goal setting process as available to perform the items of work. If the procurement provides a list of Identified MBE Firms, the Bidder/ Offeror shall make all reasonable efforts to solicit those MBE firms.

(b) Offerors may, and are encouraged to, search the MBE Directory to identify additional MBEs who may be available to perform the items of work, such as MBEs certified or granted an expansion of services after the solicitation was issued.

2. MBE Firms Identified by Offerors

(a) When the procurement does not include a list of Identified MBE Firms, Bidders/Offerors should reasonably identify the MBE Firms that are available to perform the Identified Items of Work.

(b) Any MBE Firms identified as available by the Bidder/Offeror should be certified to perform the Identified Items of Work.

C. Solicit MBEs

1. Solicit <u>all</u> Identified Firms for all Identified Items of Work by providing written notice. The Bidder/Offeror should:

(a) provide the written solicitation at least 10 days before bids or proposals are due to allow sufficient time for the MBE Firms to respond;

(b) send the written solicitation by first-class mail, facsimile, or e-mail using contact information in the MBE Directory, unless the Bidder/Offeror has a valid basis for using different contact information; and

(c) provide adequate information about the plans, specifications, anticipated time schedule for portions of the work to be performed by the MBE, and other requirements of the contract to assist MBE Firms in responding. (This information may be provided by including hard copies in the written solicitation or by <u>electronic means</u> as described in C.3 below.)

2. "<u>All</u>" Identified Firms includes the MBEs listed in the procurement and any MBE Firms the Bidder/Offeror identifies as potentially available to perform the Identified Items of Work, but it does not include MBE Firms who are no longer certified to perform the work as of the date the Bidder/Offeror provides written solicitations.

3. "<u>Electronic Means</u>" includes, for example, information provided *via* a website or file transfer protocol (FTP) site containing the plans, specifications, and other requirements of the contract. If an interested MBE cannot access the information provided by electronic means, the Bidder/Offeror must make the information available in a manner that is accessible to the interested MBE.

4. Follow up on initial written solicitations by contacting MBEs to determine if they are interested. The follow up contact may be made:

(a) by telephone using the contact information in the MBE Directory, unless the Bidder/Offeror has a valid basis for using different contact information; or

(b) in writing *via* a method that differs from the method used for the initial written solicitation.

5. In addition to the written solicitation set forth in C.1 and the follow-up required in C.4, use all other reasonable and available means to solicit the interest of MBE Firms certified to perform the work of the contract. Examples of other means include:

(a) attending any pre-Proposal meetings at which MBE Firms could be informed of contracting and subcontracting opportunities; and

(b) if recommended by the procurement, advertising with or effectively using the services of at least two minority focused entities or media, including trade associations, minority/women community organizations, minority/women contractors' groups, and local, state, and federal minority/women business assistance offices listed on the Office of Minority Business Enterprise website.

D. Negotiate with Interested MBE Firms

Bidders/Offerors must negotiate in good faith with interested MBE Firms.

1. Evidence of negotiation includes, without limitation, the following:

   (a) the names, addresses, and telephone numbers of MBE Firms that were considered;

   (b) a description of the information provided regarding the plans and specifications for the work selected for subcontracting and the means to provide that information; and

   (c) evidence as to why additional agreements could not be reached for MBE Firms to perform the work.

2. The Bidder/Offeror using good business judgment would consider a number of factors in negotiating with subcontractors, including MBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration.

3. The fact that there may be some additional costs involved in finding and using MBE Firms is not in itself sufficient reason for the Bidder's/Offeror's failure to meet the contract MBE goal(s), as long as such costs are reasonable. Factors to take into consideration when determining whether an MBE Firm's quote is excessive or unreasonable include, without limitation, the following:

   (a) dollar difference between the MBE subcontractor's quote and the average of the other subcontractors' quotes received by the Bidder/Offeror;

   (b) percentage difference between the MBE subcontractor's quote and the average of the other subcontractors' quotes received by the Bidder/Offeror;

   (c) percentage that the MBE subcontractor's quote represents of the overall contract amount;

   (d) number of MBE Firms that the Bidder/Offeror solicited for that portion of the work;

   (e) whether the work described in the MBE and Non-MBE subcontractor quotes (or portions thereof) submitted for review is the same or comparable; and

   (f) number of quotes received by the Bidder/Offeror for that portion of the work.

4. The above factors are not intended to be mandatory, exclusive, or exhaustive, and other evidence of an excessive or unreasonable price may be relevant.

5. The Bidder/Offeror may not use its price for self-performing work as a basis for rejecting an MBE Firm's quote as excessive or unreasonable.

6. The "average of the other subcontractors' quotes received" by the Bidder/Offeror refers to the average of the quotes received from all subcontractors. Bidder/Offeror should attempt to receive quotes from at least three subcontractors, including one quote from an MBE and one quote from a Non-MBE.

7. The Bidder/Offeror shall not reject an MBE Firm as unqualified without sound reasons based on a thorough investigation of the firm's capabilities. For each certified MBE that is rejected as unqualified or that placed a subcontract quotation or offer that the Bidder/Offeror concludes is not acceptable, the Bidder/Offeror must provide a written detailed statement listing the reasons for this conclusion. The Bidder/Offeror also must document the steps taken to verify the capabilities of the MBE and Non-MBE Firms quoting similar work.

   (a) The factors to take into consideration when assessing the capabilities of an MBE Firm, include, but are not limited to the following: financial capability, physical capacity to perform, available personnel and equipment, existing workload, experience performing the type of work, conduct and performance in previous contracts, and ability to meet reasonable contract requirements.

(b) The MBE Firm's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of Proposals in the efforts to meet the project goal.

E. Assisting Interested MBE Firms

When appropriate under the circumstances, the decision-maker will consider whether the Bidder/Offeror made reasonable efforts to assist interested MBE Firms in obtaining:

1. The bonding, lines of credit, or insurance required by the procuring agency or the Bidder/Offeror; and
2. Necessary equipment, supplies, materials, or related assistance or services.

III. Other Considerations

In making a determination of Good Faith Efforts the decision-maker may consider engineering estimates, catalogue prices, general market availability and availability of certified MBE Firms in the area in which the work is to be performed, other Proposals or offers and subcontract Proposals or offers substantiating significant variances between certified MBE and Non-MBE costs of participation, and their impact on the overall cost of the contract to the State and any other relevant factors.

The decision-maker may take into account whether the Bidder/Offeror decided to self-perform subcontract work with its own forces, especially where the self-performed work is Identified Items of Work in the procurement. The decision-maker also may take into account the performance of other Bidders/Offerors in meeting the contract. For example, when the apparent successful Bidder/Offeror fails to meet the contract goal, but others meet it, this reasonably raises the question of whether, with additional reasonable efforts, the apparent successful Bidder/Offeror could have met the goal. If the apparent successful Bidder/Offeror fails to meet the goal but meets or exceeds the average MBE participation obtained by other Offerors, this, when viewed in conjunction with other factors, could be evidence of the apparent successful Bidder/Offeror having made Good Faith Efforts.

IV. Documenting Good Faith Efforts

At a minimum, the Bidder/Offeror seeking a waiver of the MBE Goal(s), or a portion thereof must provide written documentation of its Good Faith Efforts, in accordance with COMAR 21.11.03.11, within 10 Business Days after receiving notice that it is the apparent awardee. The written documentation shall include the following:

A. Items of Work (Complete Good Faith Efforts Documentation Attachment D-1C, Part 1)

A detailed statement of the efforts made to select portions of the work proposed to be performed by certified MBE Firms in order to increase the likelihood of achieving the stated MBE Goal(s).

B. Outreach/Solicitation/Negotiation

1. The record of the Bidder's/Offeror's compliance with the outreach efforts prescribed by COMAR 21.11.03.09C(2)(a). **(Complete Outreach Efforts Compliance Statement - D-2).**
2. A detailed statement of the efforts made to contact and negotiate with MBE Firms including:
   (a) the names, addresses, and telephone numbers of the MBE Firms who were contacted, with the dates and manner of contacts (letter, fax, e-mail, telephone, etc.) (**Complete Good Faith Efforts Attachment D-1C-Part 2, and submit letters, fax cover sheets, e-mails, etc. documenting solicitations**); and
   (b) a description of the information provided to MBE Firms regarding the plans, specifications, and anticipated time schedule for portions of the work to be performed and the means used to provide that information.

C. Rejected MBE Firms (Complete Good Faith Efforts Attachment D-1C, Part 3)

1. For each MBE Firm that the Bidder/Offeror concludes is not acceptable or qualified, a detailed statement of the reasons for the Bidder's/Offeror's conclusion, including the steps taken to verify the capabilities of the MBE and Non-MBE Firms quoting similar work.
2. For each certified MBE Firm that the Bidder/Offeror concludes has provided an excessive or unreasonable price, a detailed statement of the reasons for the Bidder's/Offeror's conclusion, including the quotes received from all MBE and Non-MBE Firms proposing on the same or comparable work. **(Include copies of all quotes received.)**

Unavailability Certificate (see **D-1B - Exhibit A** to this Part 1) signed by the MBE contractor or a statement from the Bidder/Offeror that the MBE contractor refused to sign the MBE Unavailability Certificate.

D. Other Documentation

1. Submit any other documentation requested by the Procurement Officer to ascertain the Bidder's/Offeror's Good Faith Efforts.
2. Submit any other documentation the Bidder/Offeror believes will help the Procurement Officer ascertain its Good Faith Efforts.

1. It is hereby certified that the firm of _____
(Name of MBE Firm)

located at _____
(Address)

_____
(City) (State) (Zip)

was offered an opportunity to bid on Solicitation No. _____

in _____ County by _____
(Name of Prime Contractor's Firm)

2. _____ (MBE Firm), is either unavailable for the work/service or unable to prepare a Bid/Proposal for this project for the following reason(s):

_____

_____

_____

****

****

3. To be completed by the Prime Contractor if Section 2 of this form is not completed by the MBE Firm.

To the best of my knowledge and belief, said certified MBE is either unavailable for the work/service for this project, is unable to prepare a Proposal, or did not respond to a request for a Proposal and has not completed the above portion of this submittal.

Signature of Prime Contractor:	
Title:	Date:

D-1C
GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST

PAGE _____ OF _____

Prime Contractor:	**Project Description:**	**PROJECT/CONTRACT**
Bidder/Offeror Company Name, Address, Phone		**Solicitation #:**

Parts 1, 2, and 3 must be included with this certificate along with all documents supporting this waiver request.

I affirm that I have reviewed **Attachment D-1B**, Waiver Guidance. I further affirm under penalties of perjury that the contents of Parts 1, 2, and 3 of this **Attachment D-1C** Good Faith Efforts Documentation to Support the Waiver Request forms are true to the best of my knowledge, information, and belief.

Company Name:
Signature of Authorized Representative:
Printed Name:
Title:
Company Address:
Date:

GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST PART 1 – IDENTIFIED ITEMS OF WORK BIDDER/OFFEROR MADE AVAILABLE TO MBE FIRMS

PAGE _____ OF _____

Prime Contractor:	**Project Description:**	**PROJECT/CONTRACT**
Bidder/Offeror Company Name, Address, Phone		Solicitation #:

Identify those items of work that the Bidder/Offeror made available to MBE Firms. This includes, where appropriate, those items the Bidder/Offeror identified and determined to subdivide into economically feasible units to facilitate the MBE participation. For each item listed, show the anticipated percentage of the total contract amount. It is the Bidder's/Offeror's responsibility to demonstrate that sufficient work to meet the goal was made available to MBE Firms, and the total percentage of the items of work identified for MBE participation equals or exceeds the percentage MBE goal set for the procurement. Note: If the procurement includes a list of Proposal items identified during the goal setting process as possible items of work for performance by MBE Firms, the Bidder/Offeror should make all of those items of work available to MBE Firms or explain why that item was not made available. If the Bidder/Offeror selects additional items of work to make available to MBE Firms, those additional items should also be included below.

Identified Items of Work	**Was this work listed in the procurement?**	**Does Bidder/Offeror normally self-perform this work?**	**Was this work made available to MBE Firms? If no, explain why not.**
	□ Yes □ No	□ Yes □ No	□ Yes □ No
	□ Yes □ No	□ Yes □ No	□ Yes □ No
	□ Yes □ No	□ Yes □ No	□ Yes □ No
	□ Yes □ No	□ Yes □ No	□ Yes □ No
	□ Yes □ No	□ Yes □ No	□ Yes □ No
	□ Yes □ No	□ Yes □ No	□ Yes □ No
	□ Yes □ No	□ Yes □ No	□ Yes □ No

☐ Please check if Additional Sheets are attached.

GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST
PART 2 – IDENTIFIED MBE FIRMS AND RECORD OF SOLICITATIONS
PAGE _____ OF _____

Prime Contractor:	**Project Description:**	**Project/Contract:**
Bidder/Offeror Company Name, Address, Phone		Solicitation #:

Identify the MBE Firms solicited to provide quotes for the Identified Items of Work made available for MBE participation. Include the name of the MBE Firm solicited, items of work for which quotes were solicited, date and manner of initial and follow-up solicitations, whether the MBE provided a quote, and whether the MBE is being used to meet the MBE participation goal. MBE Firms used to meet the participation goal must be included on the MBE Participation Schedule. Note: If the procurement includes a list of the MBE Firms identified during the goal setting process as potentially available to perform the items of work, the Bidder/Offeror should solicit all of those MBE Firms or explain why a specific MBE was not solicited. If the Bidder/Offeror identifies additional MBE Firms who may be available to perform Identified Items of Work, those additional MBE Firms should also be included below. Copies of all written solicitations and documentation of follow-up calls to MBE Firms must be attached to this form. This list should be accompanied by a MBE Subcontractor Unavailability Certificate signed by the MBE contractor or a statement from the Bidder/Offeror that the MBE contractor refused to sign the MBE Subcontractor Unavailability Certificate (**Attachment D-1B - Exhibit A**). If the Bidder/Offeror used a Non-MBE or is self-performing the identified items of work, Part 4 must be completed.

Name of Identified MBE Firm & MBE Classification	**Describe Item of Work Solicited**	**Initial Solicitation Date & Method**	**Follow-up Solicitation Date & Method**	**Details for Follow-up Calls**	**Quote Rec'd**	**Quote Used**	**Reason Quote Rejected**
Firm Name: MBE Classification: (Check only if requesting waiver of MBE subgoal.) □ African American □ Asian American □ Hispanic American □ Native American □ Women □ Disabled / Disadvantaged		Date: □ Mail □ Facsimile □ E-mail	Date: □ Phone □ Mail □ Facsimile □ E-mail	Time of Call: Spoke with: ☐ Left Message	□ Yes □ No	□ Yes □ No	□ Used Other MBE □ Used Non-MBE □ Self-performing
Firm Name: MBE Classification: (Check only if requesting waiver of MBE subgoal.) □ African American □ Asian American □ Hispanic American □ Native American □ Women □ Disabled / Disadvantaged		Date: □ Mail □ Facsimile □ E-mail	Date: □ Phone □ Mail □ Facsimile □ E-mail	Time of Call: Spoke with: ☐ Left Message	□ Yes □ No	□ Yes □ No	□ Used Other MBE □ Used Non-MBE □ Self-performing

☐ Please check if Additional Sheets are attached.

GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST
PART 3 – ADDITIONAL INFORMATION REGARDING REJECTED MBE QUOTES
PAGE _____ OF _____

Prime Contractor:	**Project Description:**	**Project/Contract #:**
Bidder/Offeror Company Name, Address, Phone		**Solicitation #:**

This form must be completed if Part 1 indicates that an MBE quote was rejected because the Bidder/Offeror is using a Non-MBE or is self-performing the Identified Items of Work. Provide the Identified Items Work, indicate whether the work will be self-performed or performed by a Non-MBE, and if applicable, state the name of the Non-MBE. Also include the names of all MBE and Non-MBE Firms that provided a quote and the amount of each quote.

Describe Identified Items of Work Not Being Performed by MBE (Include spec/ section number from Proposal)	**Self-performing or Using Non-MBE (Provide name)**	**Amount of Non-MBE Quote**	**Name of Other Firms who Provided Quotes & Whether MBE or Non- MBE**	**Amount Quoted**	**Indicate Reason Why MBE Quote Rejected & Briefly Explain**
	□ Self-performing □ Using Non-MBE	$_____	_____ □ MBE □ Non-MBE	$_____	□ Price □ Capabilities □ Other
	□ Self-performing □ Using Non-MBE	$_____	_____ □ MBE □ Non-MBE	$_____	□ Price □ Capabilities □ Other
	□ Self-performing □ Using Non-MBE	$_____	_____ □ MBE □ Non-MBE	$_____	□ Price □ Capabilities □ Other
	□ Self-performing □ Using Non-MBE	$_____	_____ □ MBE □ Non-MBE	$_____	□ Price □ Capabilities □ Other
	□ Self-performing □ Using Non-MBE	$_____	_____ □ MBE □ Non-MBE	$_____	□ Price □ Capabilities □ Other
	□ Self-performing □ Using Non-MBE	$_____	_____ □ MBE □ Non-MBE	$_____	□ Price □ Capabilities □ Other

☐ Please check if Additional Sheets are attached.

D- 2
OUTREACH EFFORTS COMPLIANCE STATEMENT

Complete and submit this form within 10 Business Days of notification of apparent award or actual award, whichever is earlier.

In conjunction with the Proposal submitted in response to Solicitation No._____, I state the following:

1. Bidder/Offeror identified subcontracting opportunities in these specific work categories:

_____

_____

_____

2. Attached to this form are copies of written solicitations (with Proposal instructions) used to solicit certified MBE Firms for these subcontract opportunities.

3. Bidder/Offeror made the following attempts to personally contact the solicited certified MBE Firms:

_____

_____

4. **Please Check One:**

☐ This project does not involve bonding requirements.

☐ Bidder/Offeror assisted certified MBE Firms to fulfill or seek waiver of bonding requirements. (DESCRIBE EFFORTS):

5. **Please Check One:**

☐ Bidder/Offeror did attend the pre-Proposal conference.

☐ Bidder/Offeror did not attend the pre-Proposal conference.

☐ No Pre-proposal meeting/conference was held.

PLEASE PRINT OR TYPE

Company Name:
Company Address:
Signature of Authorized Representative:
Printed Name of Authorized Representative:
Title:
Date:

D-3A
CERTIFIED MBE SUBCONTRACTOR PARTICIPATION CERTIFICATION

INSTRUCTIONS:

PRIME CONTRACTOR: After completing SECTIONS A, B and E, provide this form to ***each Second-tier subcontractor and the*** certified MBE Firm listed on the MBE Participation Schedule (Attachment D-1A) allowing sufficient time for the MBE to respond within the required timeframe.

A Copy of the Subcontract Agreement with the MBE Firm must be provided to the Procurement Officer identified in Section E.

SECOND-TIER SUBCONTRACTOR: Complete SECTION C to acknowledge and certify the information in SECTION A.

CERTIFIED MBE SUBCONTRACTOR: Complete SECTION D to acknowledge and certify the information in SECTION A. Return the completed form directly to the Procurement Officer identified in SECTION E within 10 days after notice from the Prime Contractor of the State's intent to award the Contract. Provide a copy to the Prime Contractor.

If this form is not returned within the required time, the Procurement Officer may determine that the Prime Contractor is not responsible and therefore not eligible for contract award.

SECTION A (1-2)

(1) Provided that (Prime Contractor)_____ is awarded the State contract in conjunction with Solicitation Number _____, this Prime Contractor intends to enter into a subcontract with (Second-tier Subcontractor)_____ _____.

(2) Provided that (Second-tier Subcontractor)_____ intends to enter into a subcontract with (Certified MBE Third-tier Subcontractor) _____ _____with MBE Certification Number_____, committing to participation of at least _____ % of the total amount paid to the Prime Contractor. The projected value for the products/services identified in the table below is $_____ (Note: Enter N/A in this field if no total contract value has been established for contracts such as "Not to Exceed" or "Indefinite Delivery/Quantity").

NAICS CODE	WORK ITEM, SPECIFICATION NUMBER, LINE ITEMS OR WORK CATEGORIES (IF APPLICABLE)	DESCRIPTION OF SPECIFIC PRODUCTS AND/OR SERVICES

The Prime Contractor, Subcontractor, and MBE Firm each acknowledge that, for purposes of determining the accuracy of the information provided herein, the Procurement Officer may request additional information, including, without limitation, copies of the subcontract agreements and quotes. The Prime Contractor, Subcontractor, and certified MBE each solemnly affirms under the penalties of perjury that: (1) the information provided in this Certified MBE Subcontractor Participation Certification is true to the best of its knowledge, information and belief, and (2) it has fully complied with the State Minority Business Enterprise law, State Finance and Procurement Article §14-308(a)(2), Annotated Code of Maryland which provides that, except as otherwise provided by law, a Contractor may not identify a certified MBE in a Bid/Proposal and:

(1) fail to request, receive, or otherwise obtain authorization from the MBE to identify the MBE in its Bid/Proposal;

(2) fail to notify the MBE before execution of the Contract of its inclusion of the Bid/Proposal;

(3) fail to use the MBE in the performance of the Contract; or

(4) pay the MBE solely for the use of its name in the Bid/Proposal.

SECTION B – Prime Contractor

Signature of Authorized Representative
Printed Name:
Title:
Company Name:
Federal Identification Number:
Company Address:
Phone #:
Date:

SECTION C – Second-tier Subcontractor

Signature of Authorized Representative
Printed Name:
Title:
Printed Company Name:
Federal Identification Number:
Company Address:
Phone #:
Date:

SECTION D – Certified MBE Third-tier Subcontractor

Signature of Authorized Representative
Printed Name:
Title:
Company Name:
Federal Identification Number:
Company Address:
Phone:
Date:

SECTION E - This section is to be completed by the Prime Contractor with procurement officers contact information as listed on the applicable Key Information Summary Sheet (KISS).

This completed form is due to the Procurement Officer on or before:
Solicitation #:
Solicitation Title:
Procuring Agency:
Procurement Officer (PO):
PO Phone:
PO Email:
Procuring Agency Address:

D-3B
MBE PRIME CONTRACTOR PROJECT PARTICIPATION CERTIFICATION

Please complete and submit this form to attest to each specific item of work this MBE Firm has listed on the MBE Participation Schedule (Attachment D-1A) for purposes of meeting the MBE participation goal(s). This form must be submitted within 10 Business Days of notification of apparent award. If this form is not returned within the required time, the Procurement Officer may determine that the Prime Contractor is not responsible and therefore not eligible for contract award.

****

** Provided that _____(Prime Contractor) with

Certification Number_____is awarded the State contract in conjunction with

Solicitation No. _____, such MBE Prime Contractor

intends to perform with its own forces at least _____%. The projected value for the

products/services

identified in the table below is $_____(Note: Enter N/A in this field if no total contract value has

been established for contracts such as "Not to Exceed" or "Indefinite Delivery/Quantity").

NAICS CODE	WORK ITEM, SPECIFICATION NUMBER, LINE ITEMS OR WORK CATEGORIES (IF APPLICABLE) For Construction Projects, General Conditions must be listed separately	DESCRIPTION OF SPECIFIC PRODUCTS AND/OR SERVICES	VALUE OF THE WORK

MBE Prime Contractor

Company Name:
Federal Identification Number:
Company Address:
Phone:
Printed Name:
Title:
Signature of Authorized Representative:
Date:

D-4A
MBE PARTICIPATION
Prime Contractor Paid/Unpaid Invoice Report

Report #:	Contract #:
Reporting Period (Month/Year):	Contracting Unit:
Prime Contractor: Report is due to the MBE Liaison by the 10th of the month for the preceding month. **Note: Please number reports in sequence.**	Contract Amount:
	MBE Subcontract Amount:
	Project Begin Date:
	Project End Date:
	Services Provided:

Prime Contractor:		Contact Person:	
Address:			
City:		State:	ZIP:
Phone:	FAX:	E-mail:	
MBE Subcontractor Name:		Contact Person:	
Phone:	FAX:	E-mail:	
Subcontractor Services Provided:			

List all payments made to MBE subcontractor named above during this reporting period:			**List dates and amounts of any outstanding invoices:**		
	Invoice #	**Amount**		**Invoice #**	**Amount**
1.			1.		
2.			2.		
3.			3.		
4.			4.		
Total Dollars Paid: $			**Total Dollars Unpaid: $**		

- If more than one MBE subcontractor is used for this contract, use a separate **Attachment D-4A** form for each. Information regarding payments that the MBE Prime Contractor will use for purposes of meeting the MBE participation goal(s) must be reported separately in **Attachment D-4B**.
- Certified MBE subcontractors are required to submit to the procurement agency a report for each month during which the MBE performs work or receives payment under the contract. Monthly payment reporting requirements do not apply when the MBE subcontractor is not actively engaged in its designated phase of work, has completed its contractual work, or has no outstanding invoices to be paid.
- Return one copy (hard or electronic) of this form to the MBE Liaison for the procurement unit, identified on the Office of Small, Minority & Women Business Affairs Website (electronic copy with signature and date is preferred). **For questions, contact the procurement officer identified in the applicable Key Information Summary Sheet (KISS).**

Contract Monitor Name:
Contracting Unit:
Contracting Unit Address:
Phone:
Signature of Contract Monitor:
Date:

D-4B
MBE PARTICIPATION
MBE Prime Contractor Report

MBE Prime Contractor:	Contract #:
Certification #:	Contracting Unit:
Report #:	Contract Amount:
Reporting Period (Month/Year):	Total Value of the Work to be Self-Performed for the purposes of meeting the MBE participation goal/subgoals:
MBE Prime Contractor: Report is due to the MBE Liaison by the 10th of the month following the month the services were provided. **Note: Please number reports in sequence.**	Project Begin Date:
	Project End Date:

Contact Person:			
Address:			
City:		State:	ZIP:
Phone:	FAX:	E-mail:	

Invoice #	Value of the Work	NAICS Code	Description of Specific Products and/or Services

Return one copy (hard or electronic) of this form to the MBE Liaison for the procurement unit, identified on the Office of Small, Minority, & Women Business Affairs Website (electronic copy with signature and date is preferred). For questions, contact the procurement officer identified in the applicable Key Information Summary Sheet (KISS).

Contract Monitor Name:
Contracting Unit:
Contracting Unit Address:
Phone:
Signature of Contract Monitor:
Date:

D-5
MBE PARTICIPATION
MBE Subcontractor Paid/Unpaid Invoice Report

Report #:	Contract #:
Reporting Period (Month/Year):	Contracting Unit:
Report is due to the MBE Liaison by the 10th of the month for the preceding month.	MBE Subcontract Amt:
	Project Begin Date:
	Project End Date:
	Services Provided:

MBE Subcontractor Name:			
MBE Certification #:			
Contact Person:			
Address:			
City:		State:	ZIP:
Phone:	FAX:	E-mail:	
Subcontractor Services Provided:			

List all payments received from Prime Contractor during the reporting period indicated above.			**List dates and amounts of any unpaid invoices over 30 days old.**		
	Invoice Amount	**Date**		**Invoice Amount**	**Date**
1.			1.		
2.			2.		
3.			3.		
4.			4.		
Total Dollars Paid: $			**Total Dollars Unpaid: $**		

- Certified MBE subcontractors are required to submit to the procurement agency a report for each month during which the MBE performs work or receives payment under the contract. Monthly payment reporting requirements do not apply when the MBE subcontractor is not actively engaged in its designated phase of work, has completed its contractual work, or has no outstanding invoices to be paid.

- Return one copy (hard or electronic) of this form to the MBE Liaison for the procurement unit, identified on the Office of Small, Minority & Women Business Affairs Website (electronic copy with signature and date is preferred). **For questions, contact the procurement officer identified in the applicable Key Information Summary Sheet (KISS).**

Contract Monitor Name:
Contracting Unit:
Contracting Unit Address:
Phone:
Signature of Contract Monitor:
Date:

Exhibit E: Proposal Affidavit

A. Authority

I HEREBY AFFIRM THAT:

I (print name) _____ possess the legal authority to make this Affidavit.

B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

The undersigned bidder hereby certifies and agrees that the following information is correct: In preparing its bid on this project, the bidder has considered all proposals submitted from qualified, potential subcontractors and suppliers, and has not engaged in "discrimination" as defined in §19-103 of the State Finance and Procurement Article of the Annotated Code of Maryland. "Discrimination" means any disadvantage, difference, distinction, or preference in the solicitation, selection, hiring, or commercial treatment of a vendor, subcontractor, or commercial customer on the basis of race, color, religion, ancestry, or national origin, sex, age, marital status, sexual orientation, sexual identity, genetic information or an individual's refusal to submit to a genetic test or make available the results of a genetic test, disability, or any otherwise unlawful use of characteristics regarding the vendor's, supplier's, or commercial customer's employees or owners. "Discrimination" also includes retaliating against any person or other entity for reporting any incident of "discrimination". Without limiting any other provision of the solicitation on this project, it is understood that, if the certification is false, such false certification constitutes grounds for the State to reject the bid submitted by the bidder on this project, and terminate any contract awarded based on the bid. As part of its bid or proposal, the bidder herewith submits a list of all instances within the past 4 years where there has been a final adjudicated determination in a legal or administrative proceeding in the State of Maryland that the bidder discriminated against subcontractors, vendors, suppliers, or commercial customers, and a description of the status or resolution of that determination, including any remedial action taken. Bidder agrees to comply in all respects with the State's Commercial Nondiscrimination Policy as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland.

B-1. Certification Regarding Minority Business Enterprises.

The undersigned bidder hereby certifies and agrees that it has fully complied with the State Minority Business Enterprise Law, State Finance and Procurement Article, §14-308(a)(2), Annotated Code of Maryland, which provides that, except as otherwise provided by law, a contractor may not identify a certified minority business enterprise in a bid or proposal and:
(1) Fail to request, receive, or otherwise obtain authorization from the certified minority business enterprise to identify the certified minority proposal;
(2) Fail to notify the certified minority business enterprise before execution of the contract of its inclusion in the bid or proposal;
(3) Fail to use the certified minority business enterprise in the performance of the contract; or
(4) Pay the certified minority business enterprise solely for the use of its name in the bid or proposal.
Without limiting any other provision of the solicitation on this project, it is understood that if the certification is false, such false certification constitutes grounds for the State to reject the bid submitted by the bidder on this project, and terminate any contract awarded based on the bid.

B-2. Certification Regarding Veteran-Owned Small Business Enterprises.

The undersigned bidder hereby certifies and agrees that it has fully complied with the State veteran-owned small business enterprise law, State Finance and Procurement Article, §14-605, Annotated Code of Maryland, which provides that a person may not:
(1) Knowingly and with intent to defraud, fraudulently obtain, attempt to obtain, or aid another person in fraudulently obtaining or attempting to obtain public money, procurement contracts, or funds expended under a procurement contract to which the person is not entitled under this title;
(2) Knowingly and with intent to defraud, fraudulently represent participation of a veteran–owned small business enterprise in order to obtain or retain a bid preference or a procurement contract;

(3) Willfully and knowingly make or subscribe to any statement, declaration, or other document that is fraudulent or false as to any material matter, whether or not that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;
(4) Willfully and knowingly aid, assist in, procure, counsel, or advise the preparation or presentation of a declaration, statement, or other document that is fraudulent or false as to any material matter, regardless of whether that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;
(5) Willfully and knowingly fail to file any declaration or notice with the unit that is required by COMAR 21.11.12; or
(6) Establish, knowingly aid in the establishment of, or exercise control over a business found to have violated a provision of §B-2(1)—(5) of this regulation.

C. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business (as is defined in Section 16-101(b) of the State Finance and Procurement Article of the Annotated Code of Maryland), or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies has been convicted of, or has had probation before judgment imposed pursuant to Criminal Procedure Article, §6-220, Annotated Code of Maryland, or has pleaded nolo contendere to a charge of, bribery, attempted bribery, or conspiracy to bribe in violation of Maryland law, or of the law of any other state or federal law, except as follows (indicate the reasons why the affirmation cannot be given and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the names of persons involved, and their current positions and responsibilities with the business):

_____
_____
_____.

D. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies, has:
(1) Been convicted under state or federal statute of:
(a) A criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract; or
(b) Fraud, embezzlement, theft, forgery, falsification or destruction of records or receiving stolen property;
(2) Been convicted of any criminal violation of a state or federal antitrust statute;
(3) Been convicted under the provisions of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. §1961 et seq., or the Mail Fraud Act, 18 U.S.C. §1341 et seq., for acts in connection with the submission of bids or proposals for a public or private contract;
(4) Been convicted of a violation of the State Minority Business Enterprise Law, §14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;
(5) Been convicted of a violation of §11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland;
(6) Been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsections (1)—(5) above;
(7) Been found civilly liable under a state or federal antitrust statute for acts or omissions in connection with the submission of bids or proposals for a public or private contract;
(8) Been found in a final adjudicated decision to have violated the Commercial Nondiscrimination Policy under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland with regard to a public or private contract;
(9) Been convicted of a violation of one or more of the following provisions of the Internal Revenue Code:
(a) §7201, Attempt to Evade or Defeat Tax;
(b) §7203, Willful Failure to File Return, Supply Information, or Pay Tax,
(c) §7205, Fraudulent Withholding Exemption Certificate or Failure to Supply Information,
(d) §7206, Fraud and False Statements, or

(e) §7207 Fraudulent Returns, Statements, or Other Documents;
(10) Been convicted of a violation of 18 U.S.C. §286 Conspiracy to Defraud the Government with Respect to Claims, 18 U.S.C. §287, False, Fictitious, or Fraudulent Claims, or 18 U.S.C. §371, Conspiracy to Defraud the United States;
(11) Been convicted of a violation of the Tax-General Article, Title 13, Subtitle 7 or Subtitle 10, Annotated Code of Maryland;
(12) Been found to have willfully or knowingly violated State Prevailing Wage Laws as provided in the State Finance and Procurement Article, Title 17, Subtitle 2, Annotated Code of Maryland, if:
(a) A court:
(i) Made the finding; and
(ii) Decision became final; or
(b) The finding was:
(i) Made in a contested case under the Maryland Administrative Procedure Act; and
(ii) Not overturned on judicial review;
(13) Been found to have willfully or knowingly violated State Living Wage Laws as provided in the State Finance and Procurement Article, Title 18, Annotated Code of Maryland, if:
(a) A court:
(i) Made the finding; and
(ii) Decision became final; or
(b) The finding was:
(i) Made in a contested case under the Maryland Administrative Procedure Act; and
(ii) Not overturned on judicial review;
(14) Been found to have willfully or knowingly violated the Labor and Employment Article, Title 3, Subtitles 3, 4, or 5, or Title 5, Annotated Code of Maryland, if:
(a) A court:
(i) Made the finding; and
(ii) Decision became final; or
(b) The finding was:
(i) Made in a contested case under the Maryland Administrative Procedure Act; and
(ii) Not overturned on judicial review; or
(15) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described in §§B and C and subsections D(1)—(14) of this regulation, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):

_____
_____.

E. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities, including obtaining or performing contracts with public bodies, has ever been suspended or debarred (including being issued a limited denial of participation) by any public entity, except as follows (list each debarment or suspension providing the dates of the suspension or debarment, the name of the public entity and the status of the proceedings, the names of the persons involved and their current positions and responsibilities with the business, the grounds of the debarment or suspension, and the details of each person's involvement in any activity that formed the grounds of the debarment or suspension).

_____
_____.

F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

(1) The business was not established and it does not operate in a manner designed to evade the application of or defeat the purpose of debarment pursuant to Sections 16-101, et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland; and
(2) The business is not a successor, assignee, subsidiary, or affiliate of a suspended or debarred business, except as follows (you must indicate the reasons why the affirmations cannot be given without qualification):
_____
_____.

G. SUB-CONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, has knowingly entered into a contract with a public body under which a person debarred or suspended under Title 16 of the State Finance and Procurement Article of the Annotated Code of Maryland will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction.

H. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business has:
(1) Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the accompanying bid or offer that is being submitted;
(2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the bid price or price proposal of the bidder or offeror or of any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the accompanying bid or offer is submitted.

I. CERTIFICATION OF TAX PAYMENT

I FURTHER AFFIRM THAT: Except as validly contested, the business has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury, the State Department of Assessments and Taxation, and the Department of Labor, Licensing, and Regulation, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement.

J. CONTINGENT FEES

I FURTHER AFFIRM THAT:

The business has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency working for the business, to solicit or secure the Contract, and that the business has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency, any fee or any other consideration contingent on the making of the Contract.

K. CERTIFICATION REGARDING INVESTMENTS IN IRAN

(1) The undersigned certifies that, in accordance with State Finance and Procurement Article, §17-705, Annotated Code of Maryland:
(a) It is not identified on the list created by the Board of Public Works as a person engaging in investment activities in Iran as described in State Finance and Procurement Article, §17-702, Annotated Code of Maryland; and
(b) It is not engaging in investment activities in Iran as described in State Finance and Procurement Article, §17-702, Annotated Code of Maryland.
2. The undersigned is unable to make the above certification regarding its investment activities in Iran due to the following activities: _____

L. CONFLICT MINERALS ORIGINATED IN THE DEMOCRATIC REPUBLIC OF CONGO (FOR SUPPLIES AND SERVICES CONTRACTS)

I FURTHER AFFIRM THAT:

The business has complied with the provisions of State Finance and Procurement Article, §14-413, Annotated Code of Maryland governing proper disclosure of certain information regarding conflict minerals originating in the Democratic Republic of Congo or its neighboring countries as required by federal law.

M. I FURTHER AFFIRM THAT:

Any claims of environmental attributes made relating to a product or service included in the bid or proposal are consistent with the Federal Trade Commission's Guides for the Use of Environmental Marketing Claims as provided in 16 CFR §260, that apply to claims about the environmental attributes of a product, package, or service in connection with the marketing, offering for sale, or sale of such item or service.

N. ACKNOWLEDGEMENT

I ACKNOWLEDGE THAT this Affidavit is to be furnished to the Procurement Officer and may be distributed to units of: (1) the State of Maryland; (2) counties or other subdivisions of the State of Maryland; (3) other states; and (4) the federal government. I further acknowledge that this Affidavit is subject to applicable laws of the United States and the State of Maryland, both criminal and civil, and that nothing in this Affidavit or any contract resulting from the submission of this bid or proposal shall be construed to supersede, amend, modify or waive, on behalf of the State of Maryland, or any unit of the State of Maryland having jurisdiction, the exercise of any statutory right or remedy conferred by the Constitution and the laws of Maryland with respect to any misrepresentation made or any violation of the obligations, terms and covenants undertaken by the above business with respect to (1) this Affidavit, (2) the contract, and (3) other Affidavits comprising part of the contract.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: _____

By: _____ (print name of Authorized Representative and Affiant)

_____ (signature of Authorized Representative and Affiant)

SUBMIT THIS FORM WITH TECHNICAL PROPOSAL

Exhibit F: Firm Profile & Experience

COMPANY NAME: _____

DATE OF INCORPORATION: _____ STATE OF INCORPORATION: _____

OTHER, OR FORMER, NAMES UNDER WHICH YOUR COMPANY HAS OPERATED:

_____

NAMES OF PRINCIPAL(S) AND TITLE(S): _____

_____

_____

_____

HEADQUARTERS LOCATION: _____

LOCATION OF OFFICE THAT WILL PROVIDE SERVICES TO UMBC AND NUMBER OF EMPLOYEES:

_____

TYPE(S) OF WORK PERFORMED AND SERVICES PROVIDED:

_____

_____

_____

_____

_____

_____

_____

_____

AVERAGE ANNUAL SALES: $_____

SUBMIT THIS FORM WITH TECHNICAL PROPOSAL

Exhibit G: Reference Checks

Name of Company/Firm (Bidder/Offeror)	
Contact Name:	
Phone Number:	
Email Address:	

List three (3) engagements similar or relevant to the services requested in this solicitation. At least two of the three, and preferably all three, should be with a public university or federal or state agency and should be within the last three (3) years.

Information furnished in response to this Attachment and any verification made by the Procurement Officer shall provide a basis for determining the responsibility of Bidders/Offerors. The Procurement Officer reserves the right to request additional references or utilize references not provided by the Bidder/Offeror. Points of contact must be accessible and knowledgeable regarding the Bidder's/Offeror's performance. In the event that references are deemed insufficient by the Procurement Officer, the Procurement Officer may determine the Bidder/Offeror to be Not Responsible, which would cause the Bid/Proposal to be rejected.

Note: Copy this exhibit and attach additional sheets as necessary.

Reference #1		
Company Name:		
Address:		
City:	State:	Zip Code:
Contact Person – Name and Title:		
Phone No. for Contact Person	Email Address for Contact Person:	
Project Title/Type of Project:	Contract Value: $	
Date(s) contract was performed:		
Please describe in detail the goods or services that were provided that are comparable to the requirements in the solicitation. If requested, include the size and type of facility where goods or services were provided here.		

Firm References

Reference #2		
Company Name:		
Address:		
City:	State:	Zip Code:
Contact Person – Name and Title:		
Phone No. for Contact Person	Email Address for Contact Person:	
Project Title/Type of Project:	Contract Value: $	
Date(s) contract was performed:		
Please describe in detail the goods or services that were provided that are comparable to the requirements in the solicitation. If requested, include the size and type of facility where goods or services were provided here.		

Reference #3		
Company Name:		
Address:		
City:	State:	Zip Code:
Contact Person – Name and Title:		
Phone No. for Contact Person	Email Address for Contact Person:	
Project Title/Type of Project:	Contract Value: $	
Date(s) contract was performed:		
Please describe in detail the goods or services that were provided that are comparable to the requirements in the solicitation. If requested, include the size and type of facility where goods or services were provided here.		

SUBMIT THIS FORM WITH TECHNICAL PROPOSAL

Exhibit H: Key Personnel

Designate the Project Manager and other Key Personnel for this project. Attach additional sheets as necessary. Attach C.V.s for each individual listed.

Project Manager (or similar title)

Name: _____

Educational Background:

Association/Institution: _____

License/Certification/Degree Held: _____

Employment Background:

Most Recent Position Held: _____ Duration: _____

Relevant Experience: _____

_____

Other Key Personnel (optional)

Name: _____

Educational Background:

Association/Institution: _____

License/Certification/Degree Held: _____

Employment Background:

Most Recent Position Held: _____ Duration: _____

Relevant Experience: _____

_____

SUBMIT THIS FORM WITH BID/ TECHNICAL PROPOSAL

Exhibit I: Financial Stability of Bidder/Offeror

Corporate Address: _____

Years in Business: _____ # Employees: _____

Names of Principals and Titles: _____

_____

Annual Sales for Past Three Years:

_____

_____

_____

In the previous five years, has your firm, any affiliate, any owner or officer or major stockholder (5% or more) or any person involved in the bidding or contracting process been the subject of any of the following:

1. A firm-related bankruptcy proceeding? _____ Yes _____ No
2. A firm-related lien or judgement? _____ Yes _____ No
3. A firm-related tax delinquency? _____ Yes _____ No

Offeror: _____
Company Name

By: _____
Signature

Printed Name: _____
Printed Name

Title: _____
Title

Date: _____
Date

SUBMIT THIS FORM WITH TECHNICAL PROPOSAL

Exhibit J: Acknowledgement of Receipt of Addenda

RFP NO.: BC-21553-M

RFP FOR: On Call Underground Mechanical Utilities Maintenance Contract

TECHNICAL PROPOSAL DUE DATE: December 3, 2026

NAME OF OFFEROR: _____

ACKNOWLEDGEMENT OF RECEIPT OF ADDENDA

The undersigned, hereby acknowledges the receipt of the following addenda:

Addendum No. _____ dated _____

Addendum No. _____ dated _____

Addendum No. _____ dated _____

Addendum No. _____ dated _____

Addendum No. _____ dated _____

_____
Signature

_____
Printed Name

_____
Title

_____
Date

SUBMIT THIS FORM WITH TECHNICAL PROPOSAL

Exhibit K: Conflict of Interest Affidavit & Disclosure Form

1. "Conflict of interest" means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the State, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.
2. "Person" includes an Offeror, Contractor, consultant, or subcontractor or sub-consultant at any tier, and also includes an employee or agent of any of them if the employee or agent has or will have the authority to control or supervise all or a portion of the work for which a Proposal is made.
3. The Offeror warrants that, except as disclosed below, there are no relevant facts or circumstances now giving rise or which could, in the future, give rise to a conflict of interest.
4. The following facts or circumstances give rise or could in the future give rise to a conflict of interest (explain in detail attach additional sheets if necessary):

   _____
   _____
   _____

5. The Offeror agrees that if an actual or potential conflict of interest arises after the date of this affidavit, the Offeror shall immediately make a full disclosure in writing to the procurement officer of all relevant facts and circumstances. This disclosure shall include a description of actions which the Offeror has taken and proposes to take to avoid, mitigate, or neutralize the actual or potential conflict of interest. If the contract has been awarded and performance of the contract has begun, the Contractor shall continue performance until notified by the procurement officer of any contrary action to be taken.

I DECLARE AND AFFIRM THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Offeror: _____
Company Name

By: _____
Signature

Printed Name: _____
Printed Name

Title: _____
Title

Date: _____
Date

SUBMIT THIS AFFIDAVIT WITH BID/ TECHNICAL PROPOSAL

Exhibit L: UMBC Sample Contract

By submitting a proposal in response to this solicitation, Offeror affirms that it will execute this contract in substantially the same form. UMBC is under no obligation to negotiate terms and conditions of the Contract but may do so if deemed in its best interest.

CONTRACT

BETWEEN

THE UNIVERSITY OF MARYLAND, BALTIMORE COUNTY

AND

XXXXX

By this Contract made as of the _____, by and between The University of Maryland, Baltimore County, a constituent institution of the University System of Maryland, and instrumentality and agency of the State of Maryland ("UMBC" or "State"), 1000 Hilltop Circle, Baltimore, Maryland 21250, USA, and XXX ("Contractor"), the parties hereby agree as follows:

1. **TERM OF CONTRACT**: The term of this Contract shall begin on XXX and end on XXX unless otherwise extended, expired, or terminated pursuant to this Contract or as a matter of law. This contract may be renewed for XXX at UMBC's sole option and discretion.

2. **SCOPE OF CONTRACT**: The Contractor shall provide XXX. The Contractor's obligations and duties under this Contract shall include, but are not limited to, the terms, conditions and scope of work/specifications contained in RFP No. XXX, any amendments or changes thereto as well as the Contractor's technical proposal dated XXX and financial proposal dated XXX submitted in response to the aforementioned RFP to include Exhibits X-X which are listed below and incorporated herein by reference (collectively referred to hereinafter as the "Contract Documents"). These obligations and duties are subject to the unilateral right of UMBC to order, in writing, changes in the work within the scope of the Contract.

- Exhibit A: XXX
- Exhibit B: XXX

3. **COMPENSATION, INVOICING AND METHOD OF PAYMENT**:

3.1 As compensation for satisfactory performance of the Services and Work described in Paragraph 2, above, UMBC will pay the Contractor XXXX as quoted in the financial proposal unless modified through an official change order from UMBC Department of Procurement Services.

3.2 Payment will be made on a monthly basis in accordance with the terms and conditions set forth in this Contract.

3.3 Payments to the Contractor pursuant to this Contract shall be made no later than 30 days after UMBC's receipt of a proper invoice from the Contractor and satisfactory completion of the services performed. Each such invoice must reflect the Contractor's federal tax identification number.

3.4 All fees are exclusive of applicable federal, state, local, and foreign sales, use, excise, utility, gross receipts, value added and other taxes, tax-like charges and tax-related surcharges. UMBC is generally exempt from such taxes and Contractor agrees not to charge UMBC for such taxes in accordance with applicable law. UMBC will provide

exemption certificates upon request. Charges for late payment of invoices are prohibited, other than as prescribed by the Maryland Code, State Finance and Procurement Article, §15-101 et seq., as amended.

4. **AFFIRMATIVE ACTION**: The Contractor and its subcontractors shall comply with all applicable federal and Maryland laws, regulations, and legally enforceable requirements relating to equal employment opportunity, nondiscrimination, and affirmative action.

   Where affirmative action plans or related compliance measures are expressly required by applicable law or by the terms of a covered contract, the Contractor and applicable subcontractors shall develop, maintain, and implement such plans or measures in accordance with those requirements.

   Nothing in this provision shall be construed to require or authorize employment practices that violate applicable federal or Maryland civil rights laws.

5. **AMERICANS WITH DISABILITY ACT AND ACCESSIBILITY**: Contractor represents and warrants that it complies with the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. 12101 et seq.) as well as all applicable federal and state laws and regulations, guidelines and interpretations including but not limited to the National Rehabilitation Act Section 508 as amended. Contractor represents and warrants, as applicable, that the Services, Work, and/or Deliverables comply with Web Content Accessibility Guidelines (WCAG) Version 2.0 Level AA, and that it shall provide written documentation verifying accessibility, promptly respond to and resolve accessibility complaints received from UMBC, and indemnify and hold UMBC harmless in the event of claims arising from inaccessibility.

6. **ANTI-BRIBERY:** The Offeror warrants that neither it nor any of its officer, directors, or partners not any of its employees who are directly involved in obtaining or performing contracts with any public body has been convicted of bribery, attempted bribery, or conspiracy to bribe under the laws of any state or of the federal government or has engaged in conduct since July 1, 1977, which would constitute bribery, attempted bribery, or conspiracy to bribe under the laws of any state or the federal government.

7. **CIVIL RIGHTS ACT 1964**: The Contractor shall comply with all applicable federal and State civil rights and nondiscrimination laws, including, but not limited to, the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, the Civil Rights Act of 1991, and applicable Maryland laws and regulations, as amended.

   The Contractor shall not engage in unlawful discrimination in the performance of this Contract, including employment practices and the provision of goods and services, on the basis of race, color, religion, sex, national origin, disability, age, or any other characteristic protected by applicable law.

   The Contractor shall ensure that its subcontractors comply with all applicable civil rights and nondiscrimination requirements in connection with the performance of this Contract.

8. **COMPLIANCE WITH LAWS:** The Contractor hereby represents and warrants that:
   a. It is qualified to do business in the State of Maryland (whether a domestic business or a foreign corporation subject to registration under the Corporations and Associations Article of the Maryland Annotated Code).and that it will take such action as, from time-to-time hereafter, may be necessary to remain so qualified.

   b. It is not in arrears with respect to the payment of any moneys due and owing the State of Maryland, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract.

c. It shall comply with all federal, State, and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract, including but not necessarily limited to: Maryland Building Codes, Americans with Disabilities Act, and the Maryland Occupational Safety and Health Act and related regulations.

d. It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

9. **CONFIDENTIALITY AND NON-DISCLOSURE:**

9.1 Subject to the Maryland Public Information Act and any other applicable laws including, without limitation, HIPAA, the HI-TECH Act, and the Maryland Medical Records Act and regulations promulgated pursuant thereto, all confidential or proprietary information and documentation relating to either party (including without limitation, any information or data stored within the Contractor's computer systems or cloud infrastructure, if applicable) shall be held in confidence by the other party. Each officer, agent, and Contractor Personnel to whom any of the State's confidential information is to be disclosed shall be advised by Contractor of the obligations hereunder, and bound by, confidentiality at least as restrictive as those set forth in this Contract.

Protection of data and personal privacy shall be an integral part of the business activities of the Contractor to ensure there is no inappropriate or unauthorized use of UMBC information at any time. To this end, the Contractor shall safeguard the confidentiality, integrity and availability of State information and comply with the conditions, policies and security requirements.

9.2 Contractor shall not release any information related to services or performance of the services under this Contract, nor publish any final reports or documents without the prior written approval of the University. Contractor shall indemnify and hold harmless the State and the University, its officers, agents and employees from all harm which may be incurred by reason of dissemination, publication, distribution or circulation, in any manner whatsoever, of any information, data, documents, or materials pertaining in any way to this Contract by Contractor, its agents or employees.

9.3 Lost of Data: In the event of loss of any UMBC data or records where such loss is due to the act or omission of the Contractor or any of its subcontractors or agents, the Contractor shall be responsible for restoring or recreating, as applicable, such lost data in the manner and on the schedule set by the Contract Monitor. The Contractor shall ensure that all data is backed up and recoverable by the Contractor. At no time shall any Contractor actions (or any failures to act when Contractor has a duty to act) damage or create any vulnerabilities in databases, systems, platforms, and applications with which the Contractor is working hereunder.

10. **CONTINGENT FEE PROHIBITION**: The Contractor warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent working for the Contractor, to solicit or secure this Contract, and that it has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee or agent, any fee or any other consideration contingent on the making of this Contract.

11. **CONTRACT CONTROLS**: It is mutually agreed that any attached contract, or addenda thereto, by and between UMBC and the Contractor pertaining to this Contract is supplemental and subordinate to this University of Maryland, Baltimore County Contract. The terms and conditions of this University of Maryland, Baltimore County Contract shall, at all times and in all events and situations, be controlling.

12. **DELAYS AND EXTENSIONS OF TIME:** The Contractor agrees to prosecute the work continuously and diligently and no charges or claims for damages shall be made by it for any delays or hindrances from any cause whatsoever during the progress of any portion of the work specified in this Contract. Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, acts of the public enemy, acts of the State in either its sovereign or contractual capacity, acts of another Contractor in the performance of a contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor or the subcontractors or suppliers.

13. **DELIVERY AND ACCEPTANCE**: Delivery shall be made in accordance with the solicitation specifications. The University, in its sole discretion, may extend the time of performance for excusable delays due to unforeseeable causes beyond the Contractor's control. The University unilaterally may order in writing the suspension, delay, or interruption of performance hereunder. The University reserves the right to test any materials, equipment, supplies, or services delivered to determine if the specifications have been met. Materials shall be delivered FOB Destination to the point or points specified in the bid or proposal, on the date either agreed to in advance or specified in the bid or proposal. Any material that is defective or fails to meet the terms of the solicitation specifications may be rejected. Rejected materials shall be promptly replaced. If Contractor fails to promptly replace rejected materials, the University reserves the right to purchase replacement materials in the open market. Contractor shall be liable for costs to replace materials incurred by the University which exceed the bid proposal price, including expenses such as, but not necessarily limited to, shipping and delivery, if any.

14. **DISPUTES:**

a. This contract is subject to the USM Procurement Policies and Procedures.

b. Except as otherwise may be provided by law, all disputes arising under or as a result of a breach of this contract that are not disposed of by mutual agreement shall be resolved in accordance with this clause.

c. As used herein, "claim" means a written demand or assertion by one of the parties seeking, as a legal right, the payment of money, adjustment or interpretation of contract terms, or other relief, arising under or relating to this contract. A voucher, invoice, or request for payment that is not in dispute when submitted is not a claim under this clause. However, if the submission subsequently is not acted upon in a reasonable time, or is disputed as to liability or amount, it may be converted to a claim for the purpose of this clause.

d. A claim shall be made in writing and submitted to the procurement officer for decision in consultation with the Office of the Attorney General within thirty days of when the basis of the claim was known or should have been known, whichever is earlier.

e. When a claim cannot be resolved by mutual agreement, the contractor shall submit a written request for final decision to the procurement officer. The written request shall set forth all the facts surrounding the controversy.

f. The contractor, at the discretion of the procurement officer, may be afforded an opportunity to be heard and to offer evidence in support of his claim.

g. The procurement officer shall render a written decision on all claims within 180 days of receipt of the contractor's written claim, unless the procurement officer determines that a longer period is necessary to

resolve the claim. If a decision is not issued within 180 days, the procurement officer shall notify the contractor of the time within which a decision shall be rendered and the reasons for such time extension. The decision shall be furnished to the contractor, by certified mail, return receipt requested, or by any other method that provides evidence of receipt. The procurement officer's decision shall be deemed the final action of the University.

h. The procurement officer's decision shall be final and conclusive unless the contractor mails or otherwise files a written appeal with the Maryland State Board of Contract Appeals within 30 days of receipt of the decision.

i. Pending resolution of a claim, the contractor shall proceed diligently with the performance of the contract in accordance with the procurement officer's decision.

15. **DRUG AND ALOCHOL FREE WORKPLACE**: The contractor warrants that the contractor shall comply with COMAR 21.11.08 Drug and Alcohol Free Workplace, and that the contractor shall remain in compliance throughout the term of this purchase order.

16. **ETHICS**: This Contract is cancelable in the event of a violation of the Maryland Public Ethics Laws by Contractor or any UMBC employee in connection with this Contract.

17. **FORCE MAJEURE:** If either party's performance hereunder is rendered impossible, hazardous or is otherwise prevented or impaired due to sickness, inability to perform, accident, interruption or failure of means of transportation, Acts of God, riots, strikes, labor difficulties, pandemic, epidemics, earthquakes, any act or order of any public authority, or any other cause or event, similar or dissimilar, beyond that party's control, then each party's obligations with respect to the affected performance shall be excused and neither party will have any liability in connection therewith.

18. **GRAMM-LEACH BLILEY ACT of 1999:** The Contractor agrees that in performing its obligations under this contract, the Contractor shall comply with all requirements of a non-affiliated third-party who receives a financial institution's consumer or customer information, under the Gramm-Leach Bliley Act of 1999 and applicable regulations thereto (the "GLB Act"), and other applicable federal and state consumer privacy acts, rules and regulations. Nonpublic personal information shall have the same meaning as that term is defined in the GLB Act.

a. The Contractor agrees to disclose such nonpublic personal information for the sole purpose of facilitating the Contractor's performance of its duties and obligations under this contract and will not disclose such nonpublic personal information to any other party unless such disclosure is (i) allowed by the GLB Act and consented to by the Customer, or (ii) compelled by law, in which case the Contractor will provide notice of such disclosure to the Customer.

b. The Contractor represents and warrants that it will, for so long as it retains nonpublic personal information, implement and maintain in place the necessary information security policies and procedures for (i) protecting the confidentiality of such nonpublic person information, (ii) protecting against any anticipated threats or hazards to the security or integrity of such nonpublic personal information, and (iii) protecting against the unauthorized access to or use of such nonpublic personal information. These terms apply to all subcontractors employed by the Contractor who perform work under the scope of this agreement.

19. **INDEMNIFICATION**: The University shall not assume any obligation to indemnify, hold harmless, or pay attorneys' fees that may arise from or in any way be associated with the performance or operation of this agreement.

19.1 In addition to the obligations to indemnify set forth elsewhere in this Contract, Contractor will indemnify and hold harmless UMBC, its officers, employees, students, contractors, and agents, from and against any and all claims, suits, proceedings, costs, losses, damages, injury, liabilities, expenses, demands, and judgements, including court costs, attorney's fees, and other reasonable expenses of litigation, (collectively, a "Claim") arising directly out of Contractor's operations and/or Services under this Contract, including operation of equipment or vehicles, and wrongful or tortious acts of omission, commission, or negligence by Contractor, its employees, contractors, or agents when engaged in Contractor operations under this Contract, and including the disclosure of user personally identifiable data or Confidential Information, either during the term of this Contract or at any time thereafter, if such disclosure occurred as a result of negligence by Contractor, its employees, contractors, or agents, and provided that UMBC: (a) notifies Contractor promptly in writing of any such Claim, and (b) reasonably cooperates with Contractor in defending any such Claim. Additionally, the Contractor shall reimburse, indemnify and hold harmless UMBC for all loss to UMBC resulting from the non-performance of this Contract, except those losses otherwise specifically excluded by UMBC.

19.2 Contractor will defend and indemnify UMBC for any Claim brought against UMBC alleging that Contractor-owned Materials infringes any U.S. patent, copyright, trademark, or other proprietary right, and shall pay any Claim against UMBC, including all court-awarded costs, damages and expenses, which result from any such Claim, provided that UMBC: (a) notifies Contractor promptly in writing of any such claim or proceeding, and (b) reasonably cooperates with Contractor in defending any such claim or proceeding.

19.3 If UMBC's use of Contractor-owned Materials or Services becomes, or, in Contractor's opinion, is likely to become, enjoined as a result of a claim pursuant to alleged infringement of any third party's proprietary rights, Contractor, at Contractor's expense, shall either procure UMBC the right to continue using the Contractor-owned Materials or Services, or replace or modify the same so that it becomes non-infringing (provided replacement or modified Contractor-owned Materials or Services have substantially comparable functionality to the original Materials or Service) or, in the event performing the foregoing options are not commercially reasonable, refund to UMBC the fees paid for the particular Materials or Services out of which the claim arose.

19.4 UMBC shall not assume any obligation to indemnify, hold harmless, or pay attorneys' fees that may arise from or in any way be associated with the performance or operation of this Contract. Contractor agrees that any obligation of UMBC, as agency of the State of Maryland, under this Contract is subject to the limitations of liability that apply to agencies of the State of Maryland and other limitations of liability set forth in this Contract or by law.

20. **INSOLVENCY**: Either party may terminate this Contract if the other party becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets, becomes subject to any proceeding under any bankruptcy or insolvency law whether domestic or foreign, or has wound up or liquidated, voluntarily or otherwise.

21. **INSURANCE**: Contractor shall secure, and shall require that subcontractors secure, pay the premiums for and keep in force until the expiration of this Contract, and any renewal thereof, adequate insurance as provided below, such insurance to specifically include liability assumed by Contractor under this Contract inclusive of the requirements below:

21.1 Commercial General Liability Insurance including all extensions

- Not less than $2,000,000 each occurrence;
- Not less than $2,000,000 personal injury;
- Not less than $2,000,000 products/completed operation; and
- Not less than $2,000,000 general aggregate.

Workers' Compensation and Unemployment Insurance as required by the laws of the State of Maryland.

Property damage liability insurance with a limit of not less than $2,000,000 for each accident.

If automotive equipment is used, automobile bodily injury liability insurance with limits not less than $1,000,000 for each person and $2,000,000 for each accident, and property damage liability insurance, with a limit of not less than $2,000,000.

Professional Liability or Technology Errors and Omissions insurance in an amount not less than $2,000,000

Limits of insurance may be achieved either singularly or by combination of applicable coverages.

21.2 All policies for liability protection, bodily injury, or property damage and fiduciary bonding must specifically name on its face the State of Maryland, the University System of Maryland, and UMBC as an additional named insured with respect to operations under this Contract, including but not limited to Contractor's data center or other premises where UMBC's data is stored, provided, however, with respect to Contractor's liability for bodily injury or property damages above, such insurance shall cover and not exclude Contractor's liability for injury to the property of UMBC and to the persons or property of employees, students, faculty members, agents, officers, regents, invitees, or guests of UMBC.

21.3 Contractor will take commercially reasonable and practical steps to ensure that each insurance policy contains endorsements, identical to, or nearly identical to, the following: "It is understood and agreed that the Insurance Company shall notify the UMBC Procurement Officer in writing forty-five days (45) in advance of the effective date of any reduction in or cancellation of this policy." A certificate of each policy of insurance shall be furnished to the Procurement Officer. Except for Workers' Compensation, upon the request of the Procurement Officer, a certified true copy of each policy of insurance, including the above endorsement manually countersigned by an authorized representative of the insurance company, shall be furnished to the Procurement Officer. Notices regarding policy changes shall be furnished to the Procurement Officer. All required insurance coverages must be acquired from insurers allowed to do business in the State of Maryland. The insurers must have a policy holder's rating of "A- or better."

22. **INTELLECTUAL PROPERTY, PATENTS AND COPYRIGHTS:**

22.1 All copyrights, patents, trademarks, trade secrets, and any other intellectual property rights existing prior to the Effective Date of this Contract shall belong to the party that owned such rights immediately prior to the Effective Date ("Pre-Existing Intellectual Property"). If any design, device, material, process, or other item provided by Contractor is covered by a patent or copyright or which is proprietary to or a trade secret of another, the Contractor shall obtain the necessary permission or license to permit the State to use such item or items pursuant to its rights granted under the Contract.

22.2 Except for (1) information created or otherwise owned by UMBC or licensed by UMBC from third parties, including all information provided by UMBC to Contractor; (2) materials created by Contractor or its subcontractor(s) specifically for the State under the Contract ("Deliverables"), except for

any Contractor Pre-Existing Intellectual Property included therein; and (3) the license rights granted to the State, all rights, title, and interest in the intellectual property embodied in the solution, including the know-how and methods by which the solution is provided and the processes that make up the solution, will belong solely and exclusively to Contractor and its licensors, and UMBC will have no rights to the same except as expressly granted in this Contract. Any SaaS Software developed by Contractor during the performance of the Contract will belong solely and exclusively to Contractor and its licensors. For all Software provided by the Contractor under the Contract, Contractor hereby grants to the State a nonexclusive, irrevocable, unlimited, perpetual, non-cancelable, and non-terminable right to use and make copies of the Software and any modifications to the Software. For all Contractor Pre-Existing Intellectual Property embedded in any Deliverables, Contractor grants to the State a license to use Contractor Pre-Existing Intellectual Property in connection with its permitted use of such Deliverable. During the period between delivery of a Deliverable by Contractor and the date of payment thereafter by the State in accordance with this Contract (including throughout the duration of any payment dispute discussions), subject to the terms and conditions contained herein, Contractor grants the State a royalty-free, non-exclusive, limited license to use such Deliverable and to use any Contractor Materials contained therein in accordance with this Contract.

22.3 Contractor shall defend, indemnify and hold harmless UMBC and its agents and employees, from and against any and all claims, costs, losses, damages, liabilities, judgments and expenses (including without limitation reasonable attorneys' fees) arising out of or in connection with any third-party claim that the Contractor-provided products/services infringe, misappropriate or otherwise violate any third-party intellectual property rights. Contractor shall not enter into any settlement involving third-party claims that contains any admission of or stipulation to any guilt, fault, liability or wrongdoing by the State or that adversely affects the State's rights or interests, without UMBC's prior written consent.

22.4 Except as otherwise provided herein, Contractor shall not acquire any right, title or interest (including any intellectual property rights subsisting therein) in or to any goods, Software, technical information, specifications, drawings, records, documentation, data or any other materials (including any derivative works thereof) provided by UMBC to the Contractor. Notwithstanding anything to the contrary herein, the State may, in its sole and absolute discretion, grant the Contractor a license to such materials, subject to the terms of a separate writing executed by the Contractor and an authorized representative of UMBC as well as all required UMBC approvals.

23. **LIMITATION OF LIABILITY**: EXCEPT WHERE THE SAME RESULTS FROM CONTRACTOR'S BREACH OF ANY PRIVACY, CONFIDENTIALITY, OR OTHER LAW, CONTRACTOR'S REPRESENTATIONS OR WARRANTIES, CONTRACTOR'S INDEMNIFICATION OBLIGATIONS, OR FOR ANY DAMAGES INCURRED AS A RESULT OF THE NEGLIGENCE OR WILLFUL MISCONDUCT OF CONTRACTOR, (A) NEITHER UMBC NOR CONTRACTOR SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION, LOSS OF PROFITS, AND LOSS OF GOODWILL, WHETHER IN CONTRACT OR IN TORT, OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND (B) CONTRACTOR'S LIABILITY IN CONNECTION WITH THIS CONTRACT OR THE SERVICES PROVIDED HEREUNDER SHALL NOT EXCEED THE TOTAL AMOUNT OF FEES PAID BY UMBC UNDER THIS CONTRACT DURING THE TERM OF THIS CONTRACT OR $500,000, WHICHEVER IS GREATER.

24. **MANDATED CONTRACTOR REPORTING OF SUSPECTED CHILD ABUSE AND NEGLECT:** Maryland law contains mandatory reporting requirements for all individuals who suspect child abuse or

neglect. Contractors performing work on campus also must comply with USM Board of Regents (BOR) VI-1.50 – Policy on the Reporting of Suspected Child Abuse & Neglect, as well as the University Procedures for Reporting Suspected Child Abuse and Neglect. The above-referenced USM/University Policy and Procedures are available in full at the following link: https://www.usmd.edu/regents/bylaws/SectionVI/ and are incorporated herein. The University reserves the right to terminate the contract if Contractor fails to comply with the above-referenced policy or procedures, or if, in the judgment of the University, termination is necessary to protect the safety and welfare of children who come into contact with the University community.

25. **LIQUIDATED DAMAGES**:

25.1 If the contractor fails to deliver goods or perform services as agreed, they will be required to liquidated damages in an agreed-upon amount for each day of delay. In the event of termination for default, the contractor remains responsible for liquidated damages until equivalent goods or services are obtained. Liquidated damages should not be capped or limited to an amount less than the total potential liability.

25.2 The Contract requires the Contractor to comply in good faith with the MBE Program and Contract provisions. UMBC and the Contractor acknowledge and agree that UMBC will incur damages, including but not limited to loss of goodwill, detrimental impact on economic development, and diversion of internal staff resources, if the Contractor does not comply in good faith with the requirements of the MBE Program and MBE Contract provisions. The parties further acknowledge and agree that the damage(s) UMBC might reasonably be anticipated to accrue as a result of such lack of compliance are difficult to ascertain with precision.

25.3 Therefore, upon issuance of a written determination by UMBC that the Contractor failed to comply in good faith with one or more of the specified MBE Program requirements or MBE Contract provisions, the Contractor shall pay liquidated damages to the State at the rates set forth below. The Contractor expressly agrees that UMBC may withhold payment on any invoices as a set-off against liquidated damages owed. The Contractor further agrees that for each specified violation, the agreed upon liquidated damages are reasonably proximate to the loss UMBC is anticipated to incur as a result of such violation.

26. **MARYLAND'S GREEN PURCHASING REPORTING REQUIREMENTS**: UMBC reserves the right to request from the Contractor quarterly sales data over the life of this contract. This information must include details about the recycled content, third-party sustainability certifications, and other environmental attributes of products and services sold on this price agreement per the contract specifications.

This information will enable Maryland State agencies to comply with Article §14–405 of the Annotated Code of Maryland and COMAR 21.13.01.14, effective October 1, 2014, which requires Maryland state agencies to report to the Department of General Services on their procurement of environmentally preferable products and services.

27. **MARYLAND LAW PREVAILS**: The laws of the State of Maryland shall govern the interpretation and enforcement of this Contract. Following exhaustion of the procedures set forth in the Dispute Resolution Section, any subsequent legal actions arising under this Contract will be instituted only in the courts of the State of Maryland.

28. **MODIFICATIONS AND AMENDMENTS**: This Contract may be amended with the consent of both parties. Amendments may not change significantly the scope of the Contract.

29. **MULTI-YEAR CONTRACTS CONTINGENT UPON APPROPRIATIONS**

If the General Assembly fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of this Contract succeeding the first fiscal period, this Contract shall be canceled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either the University's rights or the Contractor's rights under any termination clause in this Contract. The effect of termination of the Contract hereunder will be to discharge both the Contractor and the University from future performance of the Contract, but not from their rights and obligations existing at the time of termination. The Contractor shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the Contract. The University shall notify the Contractor as soon as it has knowledge that funds may not be available for the continuation of this Contract for each succeeding fiscal period beyond the first.

30. **NO THIRD-PARTY BENEFICIARIES**: This Contract is only for the benefit of the undersigned parties and their permitted successors and assigns.

31. **NON-DISCRIMINATION IN EMPLOYMENT**: During the performance of this Contract, the Contractor agrees as follows: (a) The Contractor will not discriminate against any employee, applicant for employment, or individual because of race, color, religion, creed, age, sex, sexual orientation, gender identity or expression, marital status, national origin, veteran's status, genetic information, and/or physical or mental handicap. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, creed, age, sex, sexual orientation, gender identity or expression, marital status, national origin, veteran's status, genetic information, and/or physical or mental handicap; (b) The Contractor shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must, at minimum, contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined; (c) The Contractor will post in conspicuous places, available to employees, applicants for employment, and representatives of each labor union with which the covered Contractor has a collective bargaining agreement, notices setting forth the provisions of the nondiscrimination clause in subsection (a); (d) In the event of the Contractor's noncompliance with the nondiscrimination clause, this contract may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further contracts with UMBC; and (e) The Contractor will include the provisions of paragraphs (a) through (d) in every subcontract so that such provisions will be binding upon each subcontractor or vendor.

32. **NON-HIRING OF OFFICIALS AND EMPLOYEES:** No official or employee of the State, as defined under General Provisions Article § 5-502 whose duties as such official or employee include matters relating to or affecting the subject matter of this contract shall, during the pendency or term of this contract and while serving as an official or employee of the State, become or be an employee of the contractor or any entity that is a subcontractor on this contract.

33. **OWNERSHIP OF DOCUMENTS AND MATERIALS**: The Contractor agrees that all documents and materials including, but not limited to, reports, drawings, studies, specifications, estimates, maps, photographs, designs, graphics, mechanical, artwork, and computations prepared by or for it under the terms of the contract shall at any time during the performance of the services be made available to the University upon request by the University and shall become and remain the exclusive property of the University upon termination or completion of the services. The University shall have the right to use same without restriction or limitation and without compensation to the Contractor other than that provided by the contract. The University shall be the owner for purposes of copyright, patent or trademark registration.

34. **POLICITICAL CONTRIBUTION DISCLOSURE:** The Contractor shall comply with Election Law Article Title 14 Annotated Code of Maryland, which requires that every person that enters into a procurement contract with the State , a county, or a municipal corporation or other political subdivision of the State, during a calendar year in which the person receives a contract with a governmental entity in the amount of $200,000 or more, shall file with the State Board of Elections statements disclosing (a) any contributions made during the reporting period to a candidate for elective office in any primary or general election; and (b) the name of each candidate to whom one or more contributions in a cumulative amount of $500 or more were made during the reporting period. The statement shall be filed with the State Board of Elections (a) before execution of a contract by the State (or University), a county, a municipal corporation or other political subdivision of the State, and shall cover the 24 months prior to when a contract was awarded; and (b) if the contribution is made after the execution of a contract, then twice a year, throughout the contract term, on or before (i) May 31, to cover the six (6) month period ending April 30; and (ii) November 30 to cover the six (6) month period ending October 31. Additional information is available on the State Board of Elections website: http://www.elections.state.md.us/campaign_finance/index.html.

35. **PRE-EXISTING REGULATIONS**: In accordance with the provisions of Maryland Code, State Finance and Procurement Article, Section 11-206, the regulations set forth in USM Procurement Policies and Procedures in effect on the date of execution of this Contract are applicable to this Contract.

36. **PROHIBITION ON GIFTS AND GRATUITIES**: Contractor warrants that it has not offered or given, and will not offer or give to any employee or representative or family member of a UMBC employee a payment, gratuity, personal service, entertainment, or gift, other than novelty advertising items of a nominal value (i.e., pens, pencils, calendars, writing pads, clipboards, cups). Legitimate business-related activities (i.e., site inspections, business symposiums, business meals and other Contractor functions) are allowed. Any other offerings may be construed as Contractor's attempt to improperly influence decisions at UMBC. Contractor agrees that UMBC may, by written notice to Contractor, terminate this Contract if UMBC determines that Contractor has violated this Section.

37. **PUBLIC INFORMATION ACT NOTICE**: Offerors should give specific attention to the identification of those portions of their responses that they deem to be confidential, proprietary information or trade secrets, and provide any justification why such materials, upon request, should not be disclosed by the University pursuant to the Public Information Act, General Provisions Article, Title 4 of the Annotated Code of Maryland.

38. **PUBLICITY/USE OF NAME AND LOGO:**

38.1 Contractor is authorized to identify UMBC as a party to this Contract for the purpose of identifying UMBC as a customer to potential customers. However, any other use of UMBC's name promotionally or otherwise in connection with Contractor's business or the subject matter of this Contract is prohibited without the prior written consent of UMBC.

38.2 This Contract does not include a trademark license. Except as allowed by law for limited informational purposes, UMBC grants no rights to use any of its trademarks or service marks, for any purpose, without the prior and explicit written permission of UMBC. Under no circumstances does UMBC grant the right to use its logos or marks or any related products or services.

38.3 Any violation of this Section 6 will be considered a material breach of this Contract and grounds for its immediate termination in UMBC's sole discretion.

39. **RELATIONSHIP OF THE PARTIES**: Each party is acting as an independent contractor and not as

employee, agent, partner, or joint venturer with the other party for any purpose. Except as provided in this Contract, neither party will have any right, power, or authority to act or to create any obligation, express or implied, on behalf of the other.

40. **RESPONSIBILITY FOR CLAIMS AND LIABILITY**: The Contractor shall be responsible for all damage to life and property due to its activities or those of its agents or employees, in connection with the services required under the contract. Further, it is expressly understood that the Contractor shall indemnify and save harmless the University, its officers, agents, and employees from and against all claims, suits, judgments, expenses, actions, damages and costs of every name and description, including reasonable attorney's fees and litigation expenses arising out of or resulting from the negligent performance of the services of the Contractor under the contract.

41. **RESPONSIBILITY OF CONTRACTOR**:

41.1 The Contractor shall perform the Work with that standard of care, skill and diligence normally provided by a Contractor in the performance of services similar to the Work hereunder.

41.2 Notwithstanding any review, approval, acceptance, or payment for the Services by UMBC, the Contractor shall be responsible for professional and technical accuracy of the Work furnished by the Contractor under this Contract.

41.3 The Contractor shall perform the Work as described in these Contract Documents. Work shall be performed in accordance with the schedule included in these Contract Documents, or, if such schedule is not included, in accordance with a schedule agreed upon in writing by the parties at a future date and adopted as an amendment to these Contract Documents. The Contractor shall perform the Work as expeditiously as is consistent with good professional skill and care and the orderly progress of the Work.

42. **RETENTION OF RECORDS**: The Contractor shall retain and maintain all records and documents relating to this Contract for three (3) years after final payment by UMBC, or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of UMBC or the State of Maryland, including the Procurement Officer or designee, at all reasonable times. Upon demand of UMBC, Contractor will deliver a copy of records of use to UMBC. Compliance with this Section shall not be deemed a breach of any confidentiality obligations provided for herein.

43. **SET-OFF**: UMBC or the State of Maryland may deduct from and set-off any amounts due and payable to the Contractor any back-charges or damages sustained by UMBC by virtue of any breach of this Contract by the Contractor or by virtue of the failure or refusal of the Contractor to perform the Services or any part of the Services in a satisfactory manner. Nothing herein shall be construed to relieve the Contractor of liability for additional costs resulting from a failure to satisfactorily perform the Services.

44. **SUBCONTRACTING AND ASSIGNMENT**:

44.1 Except as explicitly set forth in this Contract, Contractor may not subcontract any portion of the Services provided under this Contract without obtaining the prior written approval of UMBC, nor may Contractor assign this Contract or any of its rights or obligations hereunder, without the prior written approval of UMBC. Such written approval will be in the form of a modification to this Contract. UMBC shall not be responsible for the fulfillment of Contractor's obligations to subcontractors. Any such subcontract shall be subject to any supplemental terms and conditions, in addition to the terms and

condition herein, that UMBC deems necessary to protect its interests. Contractor shall remain responsible for performance of all Services under this Contract, and shall be subject to liability to UMBC for acts and omissions of subcontractors.

44.2 Neither party may assign this Contract without the prior written consent of the other party, which consent shall not be unreasonably withheld, except that Contractor may assign this Contract to any parent, subsidiary, affiliate or purchaser of all or substantially all its assets, or via a merger, with notice to UMBC. Contractor may designate a third party to receive payment without UMBC's prior written consent unless in conflict with Maryland or federal law but shall provide UMBC with written notification thereof.

45. **SURVIVAL AFTER EXPIRATION OR TERMINATION**: Notwithstanding the expiration or termination of this Contract or any renewal period hereof, it is acknowledged and agreed that those rights and obligations which by their nature are intended to survive such expiration or termination will survive including, without limiting the foregoing, the following sections:

Indemnification
Limitation of Liability
Representations and Warranties

46. **SUSPENSION OF WORK**: The Procurement Officer unilaterally may order the Contractor in writing to suspend, delay, or interrupt all or any part of its performance for such period of time as the Procurement Officer may determine to be appropriate for the convenience of UMBC. Such suspension, delay, or interruption may be subject to applicable fees and expenses incurred by the Contractor. Such fees and expenses, if any, will be subject to negotiation between UMBC and the Contractor.

47. **TERMINATION FOR CONVENIENCE**: Upon written notice to the Contractor, the University may terminate this contract, in whole or in part, whenever the University shall determine that such termination is in the best interest of the University. The University shall pay all reasonable costs incurred up to the date of termination and all reasonable costs associated with termination of the contract. However, the Contractor may not be reimbursed for anticipatory profits. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of USM Procurement Policies and Procedures.

48. **TERMINATION FOR DEFAULT**: If the Contractor fails to fulfill its obligation under this contract properly and on time, or otherwise violates any provision of the contract, the University may terminate the contract by written notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for termination. All finished or unfinished work provided by the Contractor shall, at the University's option, become the University's property. The University shall pay the Contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the University can affirmatively collect damages. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of USM Procurement Policies and Procedures.

49. **TIME IS OF THE ESSENCE**: For all those sections of this Contract where a number of days or time frame is required, Contractor acknowledges and agrees that time is of the essence as to the production and delivery of all products and services hereunder.

50. **USE OF CONTRACTOR'S FORMS NOT BINDING ON STATE**:

49.1 The use or execution by UMBC of any forms, orders, agreements, or other documents of any kind, other than the Contract documents, used pursuant to or in the administration of any contract awarded by UMBC to the Contractor, shall not bind UMBC to any of the terms and conditions contained therein except those provisions:

49.1.1 Generally describing for the purposes of ordering: equipment or Services to be provided, locations, quantities, delivery or installation dates, and, to the extent consistent with the Contract Documents, prices; and

49.1.2 Not otherwise inconsistent with the Contract Documents.

49.2 Any such form, order, or others document shall not vary, modify, or amend the terms and provisions of the Contract Documents, notwithstanding any provision to the contrary in such document, unless all of the following conditions are met:

a. The document expressly refers to the particular document and provision of the Contract documents being modified and plainly and conspicuously identifies any modifications thereto as a modification; and

b. The document is executed on behalf of UMBC by the procurement officer; and

c. Execution of the document is approved by the procurement authority whose approval is required by law.

50. **WAIVER OF JURY**: UMBC AND CONTRACTOR HEREBY WAIVE TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO WHICH THEY ARE PARTIES ARISING OUT OF OR IN ANY WAY PERTAINING TO THIS CONTRACT. THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE BY UMBC AND CONTRACTOR, WHO HEREBY REPRESENT AND WARRANT THAT NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY AN INDIVIDUAL TO INDUCE THIS WAIVER OF TRIAL BY JURY OR TO IN ANY WAY MODIFY OR NULLIFY ITS EFFECT.

51. **ENTIRE AGREEMENT**:

a. This Contract constitutes the entire agreement of the parties and supersedes all prior written or oral and all contemporaneous oral agreements, understandings, and negotiations between the parties with respect to the subject matter hereof. This Contract is intended by the parties as the final expression of their agreement and may not be contradicted by evidence of any prior or contemporaneous agreement.

b. Headings: All headings are for reference purposes only and must not affect the interpretation of this Contract. All references to days in this Agreement mean calendar days, unless otherwise expressly stated.

All references to including mean including without limitation.

c. Partial Invalidity. Any provision of this Contract which is found to be invalid or unenforceable shall be ineffective to the extent of such invalidity or unenforceability, and the invalidity or unenforceability of such provision shall not affect the validity or enforceability of the remaining provisions hereof.

d. Notices. Any notice required to be given hereunder shall be deemed to have been given either when served personally, by facsimile, or when sent by first class mail addressed to the parties at the addresses set forth in this Agreement.

e. Counterparts. This Contract may be executed simultaneously, in two (2) or more counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same document. The signature of any party to any counterpart shall be deemed a signature to and may be appended to any other counterpart.

52. **NOTICES**: All notices hereunder this Contract shall be in writing and delivered via to the following:

If to UMBC:

Contract Monitor: _____
Name

_____
Title

_____
Email Address

With a copy to:

Procurement Officer: Nneka Miller, CMPO, CPPB
Contract Administrator
nmiller7@umbc.edu

Signatures appear on the following page

IN WITNESS WHEREOF, the parties have caused this Contract to be executed on their behalf by the undersigned as of the date first shown above.

Contractor:

_____ BY: _____

Witness Signature

_____

Typed/Printed Name

_____

Title

_____

Date

_____

Email Address

University of Maryland Baltimore County

_____ BY: _____

Witness Signature

_____

Typed/Printed Name

_____

Title

_____

Date

_____

Email Address

Exhibit M: Prime Contractor List of All Subcontractors Anticipated/Used During Contract

I. Anticipated Subcontractors

Prime Contractor List of Subcontractors Anticipated to Use During Contract

(MBE and VSBE subcontractors are contractually obligated by the prime contractor from the bid/proposal submission and contract award.)

Bidder/Offeror Name:	
Agency and Program Name:	
Solicitation Name / Number:	
Overall MBE % Goal for Contract:	
Overall VSBE % Goal for the Contract:	
Contract Duration:	
Bidder/Offeror Signature:	

By my signature above, I affirm that the list below contains all currently known anticipated subcontractors that will be used to fulfill the contact requirements.

Subcontractor Name	MBE/VSBE/SBR State of Maryland Certification # or NA	Brief Description of Work to be Performed	Individual MBE/VSBE % Goal or NA

I. Actual Subcontractors

Prime Contractor List of Actual Subcontractors Used During Contract

(MBE and VSBE subcontractors are contractually obligated by the prime contractor from the bid/proposal submission and contract award.)

Prime Contractor Name:	
Agency and Program Name:	
Contract Name / Number:	
Overall MBE % Goal for Contract:	
Overall VSBE % Goal for the Contract:	
Contract Term (Start Date - End Date):	
Total Amount Invoiced to/Paid by the State to the Prime Contractor:	
Prime Contractor Signature:	

By my signature above, I affirm that the list below contains all subcontractors that were used to fulfill the contact requirements and the total amount paid to each subcontractor to close out the contract.

Subcontractor Name	MBE/VSBE/SBR State of Maryland Certification # or NA	Brief Description of Work to be Performed	Individual MBE/VSBE % Goal or NA	Total $$ Paid to Subcontractor

Exhibit N: Non-Disclosure Agreement

THIS NON-DISCLOSURE AGREEMENT ("Agreement") is made by and between the State of Maryland (the "State"), acting by and through _____ (Issuing Agency Name) (the "Department" or "Agency" or "Authority" or "Commission"), and _____ (the "Contractor").

RECITALS

WHEREAS, the Contractor has been awarded a contract (the "Contract") following the solicitation for _____ (Solicitation Title) Solicitation # _____; and

WHEREAS, in order for the Contractor to perform the work required under the Contract, it will be necessary for the State at times to provide the Contractor and the Contractor's employees, agents, and subcontractors (collectively the "Contractor's Personnel") with access to certain information the State deems confidential information (the "Confidential Information").

NOW, THEREFORE, in consideration of being given access to the Confidential Information in connection with the solicitation and the Contract, and for other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties do hereby agree as follows:

1. Regardless of the form, format, or media on or in which the Confidential Information is provided and regardless of whether any such Confidential Information is marked as such, "Confidential Information" means (1) any and all information provided by or made available by the State to the Contractor in connection with the Contract and (2) any and all personally identifiable information (PII) (including but not limited to personal information as defined in Md. Ann. Code, General Provisions §4-101(h) and Md. Ann. Code, State Govt. § 10-1301(c)) and protected health information (PHI) as defined in 45 CFR 160.103 that is provided by a person or entity to the Contractor in connection with this Contract. Confidential Information includes, by way of example only, information that the Contractor views, takes notes from, copies (if the State agrees in writing to permit copying), possesses or is otherwise provided access to and use of by the State in relation to the Contract.

2. The Contractor shall not, without the State's prior written consent, copy, disclose, publish, release, transfer, disseminate, use, or allow access for any purpose or in any form, any Confidential Information except for the sole and exclusive purpose of performing under the Contract. The Contractor shall limit access to the Confidential Information to the Contractor's Personnel who have a demonstrable need to know such Confidential Information in order to perform under the Contract and who are bound by confidentiality obligations at least as restrictive as those set forth in this Agreement. Contractor shall provide copies of such agreements to the State upon request. The names of such personnel are attached hereto and made a part hereof as Attachment S-2. Contractor shall update Attachment S-2 by adding additional names (whether Contractor's Personnel or a subcontractor's personnel) as needed, from time.

3. If the Contractor intends to disseminate any portion of the Confidential Information to nonemployee agents who are assisting in the Contractor's performance of the Contract or will otherwise have a role in performing any aspect of the Contract, the Contractor shall first obtain the written consent of the State prior to any such dissemination. The State may grant, deny, or condition any such consent, as it may deem appropriate in its sole and absolute subjective discretion. If consent is granted, such individuals shall be considered Contractor's Personnel for all purposes herein.

4. The Contractor hereby agrees to hold the Confidential Information in trust and in strictest confidence, adopt or establish operating procedures and physical security measures, and take all other measures necessary to protect the Confidential Information from inadvertent release or disclosure to unauthorized third parties and to prevent all or any portion of the Confidential Information from falling into the public domain or into the possession of persons not bound to maintain the confidentiality of the Confidential Information.

5. The Contractor shall promptly advise the State in writing if it learns of any unauthorized use, misappropriation, or disclosure of the Confidential Information by any of the Contractor's Personnel or the Contractor's former Personnel. Contractor shall, at its own expense, cooperate with the State in seeking injunctive or other equitable relief against any such person(s).

6. The Contractor shall, at its own expense, return to the State all Confidential Information in its care, custody, control or possession upon request of the State or on termination of the Contract.

7. A breach of this Agreement by the Contractor or the Contractor's Personnel shall constitute a breach of the Contract between the Contractor and the State.

8. Contractor acknowledges that any failure by the Contractor or the Contractor's Personnel to abide by the terms and conditions of use of the Confidential Information may cause irreparable harm to the State and that monetary damages may be inadequate to compensate the State for such breach. Accordingly, the Contractor agrees that the State may seek to obtain an injunction to prevent the disclosure, copying or improper use of the Confidential Information. The Contractor consents to personal jurisdiction in the Maryland State Courts. The State's rights and remedies hereunder are cumulative and the State expressly reserves any and all rights, remedies, claims and actions that it may have now or in the future to protect the Confidential Information and seek damages from the Contractor and the Contractor's Personnel for a failure to comply with the requirements of this Agreement. In the event the State suffers any losses, damages, liabilities, expenses, or costs (including, by way of example only, attorneys' fees and disbursements) that are attributable, in whole or in part to any failure by the Contractor or any of the Contractor's Personnel to comply with the requirements of this Agreement, the Contractor shall hold harmless and indemnify the State from and against any such losses, damages, liabilities, expenses, and costs.

9. The parties further agree that:

a. This Agreement shall be governed by the laws of the State of Maryland;
b. The rights and obligations of the Contractor under this Agreement may not be assigned or delegated, by operation of law or otherwise, without the prior written consent of the State;
c. The State makes no representations or warranties as to the accuracy or completeness of any Confidential Information;
d. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement;
e. Signatures exchanged by facsimile are effective for all purposes hereunder to the same extent as original signatures;
f. The Recitals are not merely prefatory but are an integral part hereof; and
g. The effective date of this Agreement shall be the same as the effective date of the Agreement entered into by the parties.

IN WITNESS WHEREOF, the parties have, by their duly authorized representatives, executed this Agreement as of the day and year first above written.

Contractor: _____
By:
(seal)

_____
Printed Name:

_____
Title:

_____
Date:

Department: _____
By:
(seal)

_____
Printed Name:

_____
Title:

_____
Date:

R-2 NON-DISCLOSURE AGREEMENT

LIST OF CONTRACTOR'S EMPLOYEES AND AGENTS WHO WILL BE GIVEN ACCESS TO THE CONFIDENTIAL INFORMATION

Printed Name and Address of Individual/Agent	Employee (E) or Agent (A)	Signature	Date

I-3 NON-DISCLOSURE AGREEMENT

CERTIFICATION TO ACCOMPANY RETURN OR DELETION OF CONFIDENTIAL INFORMATION

I AFFIRM THAT:

To the best of my knowledge, information, and belief, and upon due inquiry, I hereby certify that: (i) all Confidential Information which is the subject matter of that certain Non-Disclosure Agreement by and between the State of Maryland and _____ ("Contractor") dated _____, 20_____ ("Agreement") is attached hereto and is hereby returned to the State in accordance with the terms and conditions of the Agreement; and (ii) I am legally authorized to bind the Contractor to this affirmation. Any and all Confidential Information that was stored electronically by me has been permanently deleted from all of my systems or electronic storage devices where such Confidential Information may have been stored.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, HAVING MADE DUE INQUIRY.

DATE: _____

NAME OF CONTRACTOR: _____

BY: _____ (Signature)

TITLE: _____ (Authorized Representative and Affiant)

Exhibit O: Performance Bond

PERFORMANCE BOND

Principal _____ Business Address of Principal ____

Surety

A corporation of the State of and authorized
to do business in the State of Maryland

Obligee
STATE OF MARYLAND

By and though the following
Administration_____

Penal Sum of Bond (express in words and figures)

Date of Contract_____
20____

Description of Contract: _____

Date Bond Executed _____
20____

Contract Number: _____

KNOW ALL MEN BY THESE PRESENTS, that we, the Principal named above and Surety named above, are held and firmly bound unto the Obligee named above in the Penal Sum of this Performance Bond stated above, for the payment of which Penal Sum we bind ourselves, our heirs, executors, administrators, personal representatives, successors, and assigns, jointly and severally, firmly by these presents. However, where Surety is composed of corporations acting as co-sureties, we the co-sureties, bind ourselves, our successors and assigns, in such Penal Sum jointly and severally as well as severally only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each co-surety binds itself, jointly and severally with the Principal, for the payment of such sum as appears above its name below, but if no limit of liability is indicated, the limit of such liability shall be the full amount of the Penal Sum.

WHEREAS, Principal has entered into or will enter into a contract with the State of Maryland, by and through the Administration named above acting for the State of Maryland, which contract is described and dated as shown above, and incorporated herein by reference. The contract and all items incorporated into the contract, together with any and all changes, extensions of time, alterations, modifications, or additions to the contract or to the work to be performed thereunder or to the Plans, Specifications, and Special Provisions, or any of them, or to any other items incorporated into the contract shall hereinafter be referred as "the Contract."

WHEREAS, it is one of the conditions precedent to the final award of the Contract that these presents be executed.

NOW, THEREFORE, during the original term of said Contract, during any extensions thereto that may be granted by the Administration, and during the guarantee and warranty period, if any, required under the Contract, unless otherwise stated therein, this Performance Bond shall remain in full force and effect unless and until the following terms and conditions are met:

1. Principal shall well and truly perform the Contract; and
2. Principal and Surety shall comply with the terms and conditions in this Performance Bond.

Whenever Principal shall be declared by the Administration to be in default under the Contract, the Surety may, within 15 days after notice of default from the Administration, notify the Administration of its election to either promptly proceed to remedy the default or promptly proceed to complete the contract in accordance with and subject to its terms and conditions.

In the event the Surety does not elect to exercise either of the above stated options, then the Administration thereupon shall have the remaining contract work completed, Surety to remain liable hereunder for all expenses of completion up to but not exceeding the penal sum stated above.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder or the Specifications accompanying the same shall in any way affect its obligation on this Performance Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the work or to the Specifications.

This Performance Bond shall be governed by and construed in accordance with the laws of the State of Maryland and any reference herein to Principal or Surety in the singular shall include all entities in the plural who or which are signatories under the Principal or Surety heading below.

IN WITNESS WHEREOF, Principal and Surety have set their hands and seals to this Performance Bond. If any individual is a signatory under the Principal heading below, then each such individual has signed below on his or her own behalf, has set forth below the name of the firm, if any, in whose name he or she is doing business, and has set forth below his or her title as a sole proprietor. If any partnership or joint venture is a signatory under the Principal heading below, then all members of each such partnership or joint venture have signed below, each member has set forth below the name of the partnership or joint venture, and each member has set forth below his or her title as a general partner, limited partner, or member of joint venture, whichever is applicable. If any corporation is a signatory under the Principal or Surety heading below, then each such corporation has caused the following: the corporation's name to be set forth below, a duly authorized representative of the corporation to affix below the corporation's seal and to attach hereto a notarized corporate resolution of power of attorney authorizing such action, and each such duly authorized representative to sign below and set forth below his or her title as a representative of the corporation. If any individual acts as a witness to any signature below, then each such individual has signed below and has set forth below his or her title as a witness. All of the above has been done as of the Date of Bond shown above.

Individual Principal

_____

In Presence of:
Witness

(Name)

_____ as to _____ _____(SEAL)

Co-Partnership Principal

_____(SEAL)

(Name of Co-Partnership)

In Presence of:
Witness

_____ as to _____(SEAL)

Partner

_____ as to _____(SEAL)

Partner

_____ as to _____(SEAL)

Partner

Corporate Principal

Attest:

(Name of Corporation) AFFIX CORPORATE SEAL

Corporate Secretary

By:
President

Attest:

Signature

(Individual or Corporate Surety)

Bonding Agent's Name:

By:

SEAL

Agent's Address:

Title:

(Business Address of Surety)

Approved as to form and legal sufficiency this ____ day of _____ 20___

Assistant Attorney General

SAMPLE

Exhibit P: Payment Bond

Principal	Business Address of Principal
Surety A corporation of the State of and authorized to do business in the State of Maryland	Obligee STATE OF MARYLAND By and though the following Administration
Penal Sum of Bond (express in words and figures): Description of Contract: <<solicitationTitle>> Contract Number: <<solicitationNumber>>	Date of Contract _____, 20__ Date Bond Executed _____, 20__

KNOW ALL MEN BY THESE PRESENTS, That we, the Principal named above and Surety named above, being authorized to do business in Maryland, and having business address as shown above, are held and firmly bound unto the Obligee named above, for the use and benefit of claimants as hereinafter defined, in the Penal Sum of this Payment Bond stated above, for the payment of which Penal Sum we bind ourselves, our heirs, executors, administrators, personal representatives, successors, and assigns, jointly and severally, firmly by these co-sureties, bind ourselves, our successors and assigns, in such Penal Sum jointly and severally as well as severally only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each co-surety binds itself, jointly and severally with the Principal, for the payment of such sum as appears above its name below, but if no limit of liability is indicated, the limit of such liability shall be the full amount of the Penal Sum.

WHEREAS, Principal has entered into or will enter into a contract with the State, by and through the Administration named above acting for the State of Maryland, which contract is described and dated as shown above, and incorporated herein by reference. The contract and all items incorporated into the contract, together with any and all changes, extensions of time, alterations, modifications, or additions to the contract or to the work to be performed thereunder or to the Plans, Specifications, and Special Provisions, or any of them, or to any other items incorporated into the contract shall hereinafter be referred to as the "Contract".

WHEREAS, it is one of the conditions precedent to the final award of the Contract that these presents be executed.

NOW THEREFORE, the condition of this obligation is such that if the Principal shall promptly make payment to all claimants as hereinafter defined, for all labor and materials furnished, supplied and reasonably required for use in the performance of the Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect, subject to the following conditions:

1. A claimant is defined to be any and all of those persons supplying labor and materials (including lessors of the equipment to the extent of the fair market value thereof) to the Principal or its subcontractors and subcontractors in the prosecution of the work provided for in the Contract, entitled to the protection provided by Section 9-113 of the Real Property Article of the Annotated Code of Maryland, as from time to time amended.

2. The above named Principal and Surety hereby jointly and severally agree with the Obligee that

every claimant as herein defined, who has not been paid in full may, pursuant to and when in compliance with the provisions of the aforesaid Section 9-113, sue on this Bond for the use of such claimant, prosecute the

suit to final judgment for such sum or sums as may be justly due claimant and have execution thereon. The Obligee shall not be liable for the payment of any costs or expenses of any such suit.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder or the Specifications accompanying the same shall in any way affect its obligation on this Payment Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the work or to the Specifications.

This Payment Bond shall be governed by and construed in accordance with the laws of the State of Maryland and any reference herein to Principal or Surety in the singular shall include all entities in the plural who or which are signatories under the Principal or Surety heading below.

IN WITNESS WHEREOF, Principal and Surety have set their hands and seals to this Payment Bond. If any individual is a signatory under the Principal heading below, then each such individual has signed below on his or her own behalf, has set forth below the name of the firm, if any, in whose name he or she is doing business, and has set forth below his or her title as a sole proprietor. If any partnership or joint venture is a signatory under the Principal heading below, then all members of each such partnership or joint venture have signed below, each member has set forth below the name of the partnership or joint venture, and each member has set forth below his or her title as a general partner, limited partner, or member of joint venture, whichever is applicable. If any corporation is a signatory under the Principal or Surety heading below, then each such corporation has caused the following: the corporation's name to be set forth below, a duly authorized representative of the corporation to affix below the corporation's seal and to attach hereto a notarized corporate resolution of power of attorney authorizing such action, and each such duly authorized representative to sign below and set forth below his or her title as a representative of the corporation. If any individual acts as a witness to any signature below, then each such individual has signed below and has set forth below his or her title as a witness. All of the above has been done as of the Date of Bond shown above.

Individual Principal

In Presence of:
Witness

_____ as to _____ (SEAL)

(Name)

Co-Partnership Principal

In Presence of:
Witness

_____ as to _____ (SEAL)

(Name of Co-Partnership)

Partner

_____ as to _____ (SEAL)

Partner

_____ as to _____ (SEAL)

Partner

Corporate Principal

_____

Attest: (Name of Corporation) AFFIX CORPORATE SEAL

_____ By: _____

Corporate Secretary President

Attest:

_____ _____

Signature (Individual or Corporate Surety)

Bonding Agent's Name: By: _____ SEAL

Agent's Address: _____ Title: _____

_____ _____

_____ (Business Address of Surety)

Approved as to form and legal sufficiency
this __ day of _____ 20_____

_____

Assistant Attorney General

SAMPLE

Exhibit Q: Bid Bond

Bond No. _____

We, _____ as Principal, hereinafter called the Principal, and _____, a corporation duly organized under the laws of the State of _____, as Surety, hereinafter called the Surety, are held and firmly bound unto the State of Maryland, hereinafter called "State", for the sum of _____ for the payment of which sum, the Principal and the Surety bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for (Identify project by number and brief description):

NOW, THEREFORE, if the Principal, upon acceptance by the State of its bid identified above, within the period specified therein for acceptance (ninety (90) days, if no period is specified), shall execute such further contractual documents, if any, and give such bond(s) as may be required by the terms of the bid as accepted within the time specified (ten (10) days if no period is specified) after receipt of the forms, or in the event of failure so to execute such further contractual documents and give such bonds, if the Principal shall pay the State the difference not to exceed the penalty hereof between the amount specified in Principal's bid and such larger amount for which the State may in good faith contract with another party to perform the work covered by said bid, then the above obligation shall be void and of no effect.

The Surety executing this instrument hereby agrees that its obligation shall not be impaired by any extension(s) of the time for acceptance of the bid that the Principal may grant to the State, notice of which extension(s) to the Surety being hereby waived; provided that such waiver of notice shall apply only with respect to extensions aggregating not more than ninety (90) calendar days in addition to the period originally allowed for acceptance of the bid.

Individual Principal

In Presence of:
Witness

_____ as to _____ (SEAL)

(Name)

Partnership Principal

In Presence of:
Witness

_____ as to _____ (SEAL)

(Name)

Partner

_____ as to _____ (SEAL)

Partner

_____ as to _____ (SEAL)

Partner

Corporate Principal

Attest:

_____

(Name of Corporation) AFFIX SEAL

By: _____

Secretary

President

Attest:

(Surety)

By:

Attorney-in-fact AFFIX SEAL

Bonding Agent's Name

Agent's Address:

Approved as to form and legal sufficiency this ____ day of _____ 20___

Assistant Attorney General

SAMPLE

Exhibit R

UNIVERSITY OF MARYLAND, BALTIMORE COUNTY

STANDARD GENERAL CONDITIONS OF

CONTRACTS FOR MAINTENANCE PROJECTS

FEBRUARY 2021 EDITION
("STANDARD MAINTENANCE GENERAL CONDITIONS")

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SECTION 1: DEFINITIONS AND RESPONSIBILITIES

1.01 DEFINITIONS

Addendum -- a revision or clarification to the original forms, conditions, Specifications, and Drawings, made prior to execution of the Contract. Addendums are part of the Solicitation Documents.

The Architect/Engineer (A/E) -- A person registered in the State of Maryland to practice Architecture or Engineering and commissioned by the University to serve as Architect/Engineer on the project. If the University has not contracted with an independent Architect/ Engineer for a project, then the UMBC Office of Facilities Management may be referred to by the term “Architect/ Engineer." Whenever the contract documents are prepared by a registered Engineer in independent practice, and a separate Architect is not employed, each reference to "Architect/Engineer" refers to the Engineer. For a Design/Build project, the term "Architect/Engineer" refers to the person registered in the State of Maryland to practice and commissioned by the Design/Build Contractor to serve as Architect/Engineer on the project.

Change Order -- A written order signed by the responsible procurement officer, directing a Contractor to make changes in implementation of the project.

Contract -- The written agreement executed between the University and the Contractor, covering the performance of the work and furnishing of labor, services, equipment, and materials, and by which the University is obligated to compensate the Contractor at the mutually established and accepted rate or price. The Contract shall include the RFP, the Contractor’s proposal, contract forms and bonds, these Standard Conditions, and special conditions pertaining to work on the campus involved, specifications, addenda, supplemental specifications, all special provisions, all technical provisions, all plans and notices to proceed, any written change orders that are required to complete the work in an acceptable manner, including authorized extensions, and any other matter agreed to as being part of the contract.

Contract Time and Completion Date -- The number of calendar days shown in the specifications indicating the time allowed for the completion of the Work contemplated in the Contract. In case a calendar date of completion is shown, instead of the number of calendar days, such work shall be completed on or before that date.

Contractor -- The person or organization having direct contractual relation with the University for the execution of the "Work." If the Contractor is comprised of more than one legal entity, each entity shall be jointly and severally liable.

Contractor’s Project Manager -- The Project Manager is a Contractor employee who will be involved from Notice to Proceed to Construction Close-Out (Completion of the Punch List work included with the Substantial Completion Certificate). This person will be responsible for the overall management, administration, communication, and completion of the project.

Critical Path Method (CPM) - A scheduling/management tool showing a network of work elements or activities for a maintenance project.

Drawings -- The Drawings are the graphic and pictorial portions of the Contract Documents, wherever located and whenever issued, showing the design, location and dimensions of the work, generally including plans, elevations, sections, details, schedules, and diagrams.

Notice to Proceed -- A written notice to the Contractor of the date on which the Contractor shall begin the prosecution of the work to be done under the Contract.

Owner -- means the University as defined below.

Performance Bond and Payment Bond -- The security in the form approved by the University and executed by the Contractor and Contractor's surety, and paid for by the Contractor, as a guarantee that Contractor will pay in full all bills and accounts for materials and labor used in the project, as provided by law.

Plans -- The official drawings approved by the University for the project.

The President -- Shall be understood to mean the President of the University of Maryland, Baltimore County or his or her designee.

Procurement Officer -- The person designated by the President and authorized by the University in accordance with law or regulations to formulate, enter into, or administer contracts or make written determinations and findings with respect to the contracts.

Project -- The Project is the total work performed under the Contract Documents, which may be the whole or a part and which may include work by the University or by separate contractors.

Repair -- Where used in these contract documents shall be taken to mean to restore after injury, deterioration, or wear; to mend, to renovate by such means as appropriate and to supply such materials and labor as necessary to render the item to be repaired sound, solid, true, plumb, square, even, smooth, and fully serviceable. Upon completion of such repair it must be, unless otherwise stated, rendered to such conditions as to present a first class finished work, or in instances where the repaired item serves as a base for additional finish, the repaired work must be such as to permit a first class finish to be applied without extra cost to the University. When the word "repair" is used in connection with machinery or mechanical equipment it shall mean, in addition to the above, rendering the equipment completely serviceable and efficient ready for normal use for which it was intended originally.

Specifications -- The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, building systems, standards, and workmanship for the work, and performances of related services.

State -- Refers to the State of Maryland.

Solicitation – Refers to the solicitation issued by UMBC to procure the Contractor.

Subcontractor -- As used under the Contract Documents includes only those having a direct contract with the Contractor. This term includes one who furnishes material worked to a special design according to the plans and specifications for the "Work." The term excludes one who merely furnishes material not so worked.

Superintendent— The Superintendent is a Contractor employee who will be involved as required by the Project from Notice to Proceed to Construction Close-Out. This person will be responsible for the overall direct supervision of the subcontractors, daily coordination of the work on site, maintenance of the schedule, on site management such as material delivery, outages, etc. The Superintendent should have knowledge of safety hazards and MOSHA requirements and the ability to interpret contract plans and specifications for the subcontractors.

Surety -- The corporate body bound with and for the Contractor, for the full and complete performance of the Contract and for the payment of all debts pertaining to the work.

University -- Refers to the University of Maryland, Baltimore County, a body corporate and an agency and instrumentality of the State of Maryland.

University's Project Manager – The University's representative, generally, but not always, from the Office of Facilities Management, who is involved from Notice to Proceed to Project Close-Out (Completion of the Punch List work included with the Substantial Completion Certificate). This person will be responsible for the University for the overall management, administration, communication and completion of this Project.

Work -- Work shall be understood to mean the furnishing of all labor, materials, equipment, services, utilities, and other incidentals necessary to the successful completion of the project and the carrying out of all the duties and obligations imposed by the Contract.

1.02 UNIVERSITY'S RESPONSIBILITIES

A. The University shall furnish, upon request, any available record drawings, utility plans and locations, and other data pertinent to existing conditions to the extent that such material is available. However, the University does not provide any assurances that such drawings, property description, or other data are accurate, current or complete.

B. Information or services under the University's control shall be furnished by the University with reasonable promptness to avoid delay in the orderly progress of the work.

C. The foregoing are in addition to other duties and responsibilities of the University enumerated in the Contract.

D. The University and State shall not assume any obligation to indemnify, hold harmless, or pay attorney's fees that may arise from or in any way be associated with the performance or operation of this Contract.

1.03 CONTRACTOR'S RESPONSIBILITIES

Notwithstanding anything in the Contract to the contrary, the following items are in addition to the Contractor's obligations set forth elsewhere in the Contract.

A. The Contractor shall supervise and direct the work, using Contractor's best skill and attention. Contractor shall be solely responsible for all means, methods, techniques, sequences, and procedures and for coordinating all portions of the work under the Contract.

B. The Contractor shall be responsible to the University for acts and omissions of Contractor's employees, subcontractors and their agents and employees, and other persons performing any of the work under a Contract with the Contractor.

C. The Contractor shall not be relieved from Contractor's obligation to perform the work in accordance with the Contract documents either by the Contract or by inspections, tests, or approvals required or performed by persons other than the Contractor.

D. The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits, and the Contract documents, and shall not unreasonably encumber the site with any materials or equipment. The Contractor shall submit safety and environmental documentation as required and requested to the University's Office of Environmental Safety & Health (ESH), 1000 Hilltop Circle, Baltimore, MD 21250, as applicable to operations for the completion of the project.

E. Cutting and Patching of Work:

(1) The Contractor shall be responsible for all cutting, fitting, or patching that may be required to complete the Work or to make its several parts fit together properly in accordance with the Contract Documents.

(2) The Contractor shall not alter, damage or endanger any portion of the work of the University or any separate contractors by cutting, patching, or otherwise altering any work or by excavation. The Contractor shall not cut or otherwise alter the work of the University and of such separate Contractor.

(3) The Contractor shall not unreasonably withhold consent to cutting or otherwise altering the work from the University or any separate contractor.

F. The Contractor shall perform all work in accordance with the lines, grades, typical cross sections, dimensions, and other data required by the Contract documents or as modified by written orders, including the furnishing of all materials, services, implements, machinery, equipment, tools, supplies, transportation, labor, and all other items necessary for the satisfactory prosecution and completion of the project in full compliance with the requirements of the Contract documents.

G. Indemnification:

(1) To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless

the University System of Maryland, the University, the State of Maryland, the Architect/Engineer, and their agents and employees from and against all claims, damages, losses, and expenses, including but not limited to attorney's fees, arising out of or resulting from the performance of the Work, provided that any such claim, damage, or loss or expense:

(a) is attributable to bodily injury, sickness, disease, or death personal injury or injury to or destruction of tangible property (other than the work itself) including the loss of use resulting there from; and

(b) is caused in whole or in part by any negligent or willful act or omission of the Contractor, any Subcontractor or sub-subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.

Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this paragraph. This obligation is not intended to be or to imply a waiver of the sovereign immunity of the University or the State, or any local jurisdiction where the Project is located.

(2) In any and all claims against the University or the State of Maryland or the Architect/Engineer or any of their agents or employees by any employee of the Contractor, any Subcontractor or sub-subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Contractor or any Subcontractor of sub-subcontractor under worker's or workmen's compensation acts, disability benefit acts or other employee benefit acts.

(3) The obligations of the Contractor under this paragraph shall not extend to the liability of the Architect/Engineer arising out of:

(a) the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs, or specifications; or

(b) the giving of or the failure to give directions or instructions by the Architect or the Engineer, or their agents or employees providing such giving or failure to give is the primary cause of the injury or damage.

SECTION 2: AWARD AND EXECUTION OF CONTRACT

2.01 AWARD OF CONTRACT

A. The University reserves the right to cancel the award of any Contract before the execution of the Contract by all parties without any liability on its part.

B. When a Contract is jointly bid, all Contractors bidding will be held jointly and severally responsible

for the duties of the Contractor.

2.02 EXECUTION OF CONTRACT

After a Notice of Award has been issued for a project, the University's Department of Procurement and Strategic Sourcing shall forward the formal contract form and any other applicable forms (i.e., Contract Affidavit, Minority Business Participation Exhibits, Performance and Payment bonds, etc.) to the Contractor for execution, and from time to time shall forward to Contractor the forms required in connection with any contract amendment. The Contractor shall execute the contract form or the contract amendment, as applicable, and other applicable forms and return the forms, along with required certificates of insurance to the Procurement Department within ten (10) days after receipt.

After receipt of the properly executed contract form and other applicable contract forms, the Department of Procurement and Strategic Sourcing will execute the contract or the contract amendment, as applicable, and forward the Contractor a copy.

The contract or the contract amendment shall not be in effect until and unless the document is executed by all parties and, if applicable, approved by appropriate external parties as may be required by the University and the State.

2.03 PERFORMANCE AND PAYMENT BONDS

This section is applicable when the initial cost for a project exceeds $100,000, or when otherwise expressly provided in the solicitation document or contract form.

A. The Contractor shall provide executed performance and payment bonds in the format required by COMAR 21.07.02.10. The premium for the bonds shall be paid by the Contractor.

B. The bonds shall be in the full amount of the contract price.

C. The Contractor shall increase the amount of the bonds from time to time to reflect increases in the contract price. For such additions, the Contractor will be reimbursed by the University for the amount of the actual increased bond cost.

D. The Contractor shall deliver fully executed 100% Performance and Payment bonds to the University's Procurement Department within ten (10) working days after the contract document is sent to the Contractor.

2.04 FAILURE TO EXECUTE CONTRACT

As applicable, failure of the Contractor to execute the contract or the contract amendment and file acceptable bonds in a timely manner shall be just cause for the payment of liquidated damages guaranteed by the bid bond or other securities at an amount equal to the increased contract price paid by the University as a result of the failure of the Contractor to execute the contract, or the contract amendment.

In the event that the damages sustained by the University exceed the amount of the bid security, the University reserves the right to proceed against the Contractor for the balance of the University’s damages.

2.05 CERTIFICATIONS REQUIRED BY LAW

A. Cost and Price Certification:

(1) The Contractor by submitting cost or price information certifies that, to the best of Contractor's knowledge, the information submitted is accurate, complete, and current as to a mutually determined specified date prior to the conclusion of any price discussions or negotiations for:

(a) a negotiated contract, if the total contract price is expected to exceed $100,000 or a smaller amount set by the procurement officer; or

(b) a change order or contract modification expected to exceed $100,000, or a smaller amount set by the University.

(2) The price under the contract and any change order modification, including profit or fee, shall be adjusted to exclude any significant price increases occurring because the Contractor furnished cost or price information which, as of the date agreed upon between the parties, was inaccurate, incomplete, or not current.

B. Contingent Fee Prohibition:
At the time the parties execute the contract, if not sooner, the Contractor shall truthfully execute a certificate on a form provided by the University which provides that Contractor has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent or paid consideration to any person which is contingent upon the making of the contract.

C. Corporate Registration and Tax Payment Certification:
The Contractor, represents and warrants, and shall truthfully execute a certificate on a form provided by the University during the solicitation process: (1) that Contractor is qualified to do business in the State of Maryland and that Contractor will take such action as, from time to time may be necessary, to remain qualified; and (2) that Contractor is not in arrears with respect to the payment of any monies due and owing the University or the State of Maryland, or any department or unit, including but not limited to the payment of taxes and employee benefits, and Contractor shall not become so in arrears during the term of this Contract.

2.06 CONTRACT DOCUMENTS

A. The contract documents are complementary; that which is called for by any document shall be as binding as if called for by all.

(1) The intent of the documents is to include all work necessary for proper completion of the project, excluding any part that is excluded from the contract, ready for continual efficient operation. The documents are not intended, however, to include any work not reasonably inferable that is not explicitly described in the contract document.

(2) Whenever the Contractor has questions, the Contractor should obtain clarification of all questions which may have arisen as to intent of the contract documents or any actual conflict between two or more items in the contract documents. Should the Contractor fail to obtain clarification, then the University may direct that the Work proceed by any method indicated, specified, or required by the contract documents in the interest of maintaining the best practice. Direction by the University shall not constitute the basis for a claim for extra costs by the Contractor. The Contractor acknowledges that the Contractor has the opportunity to request clarification prior to submitting a price to the University, and therefore agrees that Contractor is not entitled to claim extra costs as a result of failure to obtain clarification.

(3) Work described in words that have a well-known technical or trade meaning shall be held to refer to such recognized standard use.

(4) Singular or plural references shall mean one or more like terms of work as necessary to complete the Work, unless specifically directed otherwise.

(6) Typographical and spelling errors in the specifications will be interpreted by the A/E for the meaning and intent, if the specification is unclear as a result of the error.

(7) The following order of precedence shall be used when there is a conflict in the bidding or contract documents. When the order of precedence cannot be used to resolve a conflict, then the more expensive labor, material or equipment shall be provided.

(a) The written agreement between the University and the Contractor

(b) Supplementary Conditions

(c) General Conditions

(d) Project Specifications

(e) Drawings, in the following order of precedence:

(i) Notes on Drawings in order of scale with largest first

(ii) Details in order of scale with largest first

(iii) Figured Dimensions

(iv) Scaled Dimensions

B. Drawings -- The Contractor shall do no Work without proper drawings and instructions. Drawings are in general drawn to scale, and symbols are used to indicate materials and structural and mechanical requirements. When symbols are used, those parts of the drawings are of necessity diagrammatic and it is not possible to indicate all connections, fittings, fastenings, etc., which are required to be furnished for the proper execution of the work. Diagrammatic indications of piping, ductwork and conduit, and similar items in the work are subject to field adjustment in order to obtain proper grading,

fitting passage over, under, or past obstructions, to avoid exposure in finished rooms and unsightly and obstructing conditions. The Contractor shall make these adjustments at no increased cost to the University.

(1) Copies Furnished -- The University will electronically furnish the Contractor, without cost, one (1) set of reproducible drawings and one (1) set of specifications at 100% Documents.

(2) Copies At The Site -- The Contractor shall keep in the job site office a complete set of all drawings, specifications, shop drawings, schedules, etc., in good order and available to the Architect/Engineer and the University.

(3) Ownership -- All documents remain the property of the University. Documents may not be used on other work and shall be returned to the University upon completion of the work.

C. Large Scale Detail Drawings -- At the University's direction, the Architect/Engineer shall furnish additional instructions in the form of large scale developments of the drawings used for bidding or to amplify the specifications for the proper execution of the Work. These large scale drawings shall be true developments of the bidding documents and the Work shall be executed in conformity to the drawings.

D. Dimensions -- The Contractor shall carefully check all dimensions prior to execution of the particular work affected. Whenever inaccuracies or discrepancies are found, the Contractor shall consult the Architect/Engineer prior to any Work. Should any dimensions be missing, the Architect/Engineer will be consulted and supply the dimensions prior to execution of the work unless, under the specifications, the Contractor is responsible for determining dimensions. Dimensions for items to be fitted into constructed conditions at the job will be taken at the job and will be the responsibility of the Contractor. The obvious intent of the documents, or obvious requirement dictated by conditions existing or being constructed, supersedes dimensions or notes which may be in conflict. Whenever a stock size manufactured item or place of equipment is specified by its normal size, it is the responsibility of the Contractor to determine the actual space requirements for setting or entrance to the setting space. No extra cost will be allowed by reason of work requiring adjustments in order to accommodate the particular item of equipment

E. Whenever new work, building, addition, or portions are not accurately located by plan dimensions, the Architect/Engineer will supply exact position to execution of the work.

2.07 SHOP DRAWINGS

The Specifications for a particular project shall determine if shop drawings are required for a project. This section applies to projects that require shop drawings.

A. As required by the University or the Architect/Engineer for the work of the various trades, the Contractor shall submit shop drawings, including setting drawings, and schedules for the Architect/Engineer's approval at such time as agreed in the Contractor's schedule. These drawings shall be prepared in conformity with the best practice and standards for the trade concerned. Due regard shall be given to speed and economy of fabrication and erection.

B. All shop drawings must show the name of the project and the University Contract number.

C. Submittal of Drawings -- All shop drawings and details submitted to the University and the Architect/Engineer for approval shall be submitted in a manner as directed by the University.

D. Items for which Shop Drawings will be Required -- Shop drawings will be required for all items which are specifically fabricated for the work or when the assembly of several items is required for a working unit. Shop drawings are required for all reinforcing and structural steel, specially made or cut masonry units, miscellaneous metal work, specially made millwork, plaster molds, or moldings, marble and slate, special rough hardware, and all heating, ventilating, plumbing, and electrical items requiring special fabrication, or detail connections including refrigeration, elevators, dumb waiters, laboratory equipment, ducts, etc. Shop drawings are also required for any items listed in the submittal section of the specifications.

E. Examination And Approval -- The Architect/Engineer will examine shop drawings with reasonable promptness, noting desired corrections or granting approval or rejecting them.

F. Field Dimensions And Conditions -- The Architect/Engineer is not responsible for the check of dimensions or existing conditions in the field. This is the sole responsibility of the Contractor.

G. Resubmission -- When the Architect/Engineer notes desired corrections or rejects the drawings, the Contractor shall resubmit the drawings promptly with corrective changes, without additional compensation.

H. Contractor's Responsibility -- Unless the Contractor has, in writing, notified the Architect/Engineer to the contrary, at the time of submission, the University and the Architect/Engineer may and will assume that the drawings are in conformity with the contract documents and do not involve any change in the Contract price or any change which will alter the space within the structure or alter the nature of the building from the contemplated in the Contract documents.

I. University's and Architect/Engineer's Notations -- Should the Contractor consider any rejection of the University's and Architect/Engineer's notation on the shop drawings to require an increase in the cost of the work from that contemplated in the Contract documents, then the Contractor shall desist from further action relative to the item the Contractor questions and shall notify the University and Architect/Engineer, in writing, within five (5) days of the additional or less cost involved. No work relative to the item shall be executed until the entire matter is clarified and the Contractor is ordered by the University to proceed. Failure of the Contractor to serve written notice as above required shall constitute a waiver of any claim. Similarly, should the University’s and Architect/Engineer's notation or change involve less work than is covered by the contract drawings, the Contractor shall allow the University an equitable credit resulting from the change in the work.

SECTION 3: SCOPE OF THE WORK

3.01 INTENT OF THE CONTRACT DOCUMENTS

It is the intent of the Contract documents to show all the work necessary to complete the project.

3.02 DIFFERING SITE CONDITIONS

A. The Contractor shall promptly, and before such conditions are disturbed, notify the Procurement Officer in writing of: (1) subsurface or latent physical conditions at the site differing materially from those indicated in the Contract; or (2) unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract. The Procurement Officer shall promptly investigate the conditions, and if the Procurement Officer finds that conditions do materially differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performance of any part of the work under the Contract, whether or not changed as a result of such conditions, an equitable adjustment shall be made and the Contract modified in writing accordingly.

B. No claim of the Contractor under this clause shall be allowed unless the Contractor has provided prompt notice, as required; however, the time prescribed for the project may be extended by the University.

C. No claim by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this Contract.

3.03 SITE INVESTIGATION

This provision is in addition to any other provision in the Contract relating to Site Investigation.

The Contractor acknowledges that the Contractor has investigated and been satisfied as to the conditions affecting the work, including but not restricted to those bearing upon transportation, disposal, handling and storage of materials, availability of labor, water, electric power, roads and uncertainties of weather, river stages, tides or similar physical conditions at the site, the conformation and conditions of the ground, the character of equipment, and facilities needed preliminary to and during prosecution of the work. The Contractor further acknowledges that the Contractor is satisfied as to the character, quality and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by the University, as well as from information presented by the drawings and specifications made a part of the Contract. Any failure by the Contractor to become acquainted with the available information may not relieve the Contractor from responsibility for estimating properly the difficulty or cost of successfully performing this work. The State assumes no responsibility for any conclusions or interpretations made by the Contractor on the basis of the information made available by the University.

3.04 CONDITIONS AFFECTING THE WORK

The Contractor shall be responsible for having taken steps reasonably necessary to ascertain the nature and location of the work and the general and local conditions which affect the work or the cost. Any failure by the Contractor to do so will not relieve the Contractor from responsibility for successfully performing the work without additional expense to the University. The Contractor agrees not to place any credence in any understanding or representation concerning conditions made by any University employee or agents prior to the execution of the Contract unless such understanding or representation is expressly stated in the Contract.

3.05 CHANGES IN THE WORK

A. A procurement officer in the University's Department of Procurement & Strategic Sourcing may, at any time, without notice to the sureties, if any, by written order designated or indicated to be a change order, make any change in the work within the general scope of the Contract, including but not limited to changes:

(1) In the specifications (including drawings and designs);

(2) In the method or manner of performance of the Work;

(3) In the University-furnished facilities, equipment, materials, services, or site; and

(4) Directing acceleration in the performance of the Work.

B. If any change under this clause causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work under the Contract, whether or not changed by and any order, an equitable adjustment shall be made and the Contract modified in writing accordingly.

C. No claim by the Contractor for an equitable adjustment shall be allowed or asserted after final payment under the Contract.

D. In order to facilitate review of quotations for extras or credits, all proposals (except those so minor that their propriety can be seen by inspection) shall be accomplished by a complete itemization of costs including labor, materials and Subcontracts. Where major cost items are subcontracts, they shall also be itemized. A change involving over $2000.00 will not be approved without itemization.

E. The Contractor and subcontractor shall furnish labor and materials for any additional work ordered by the University (and for which no pre-agreed price has been fixed) for the net cost of all labor and materials furnished plus the following percentage for overhead and profit:

Not to exceed 10% mark up for additional work performed by a subcontractor;

Not to exceed 5% mark up for materials; and,

Not to exceed 15% mark up on work performed by the Contractor's own forces.

F. Each contract modification or Change Order that affects contract price shall be subject to the prior written approval of the Procurement Officer and other appropriate authorities and to prior certification of the appropriate fiscal authority of fund availability and the effect of the modification or Change Order on the project budget or the total cost. If, according to the certification of the fiscal authority, the contract modification or Change Order will cause an increase in cost that will exceed budgeted and available funds**,** the modification or change order may not be made unless sufficient additional funds are made available or the scope of the project is adjusted to permit its completion within the project

budget.

3.06 UNAUTHORIZED WORK

Contractor shall not be paid for any work not authorized in writing by the University.

SECTION 4: CONTROL OF THE WORK

4.01 AUTHORITY OF THE ARCHITECT/ENGINEER

A. Under the direction of the University, the Architect/Engineer shall be the initial interpreter of any drawings included among the Contract documents. The A/E will furnish with reasonable promptness such clarifications as the A/E may deem necessary for the proper execution of the Work; such clarifications to be consistent with the intent of the Contract documents. The A/E is the agent of the University only to the extent provided in the Contract documents. The A/E may be authorized in special circumstances to recommend to the University to stop work whenever such stoppage may be necessary to insure the proper execution of the Contract.

B. Except as otherwise provided in the Contract documents, all the Architect/Engineer's decisions are subject to review by the University.

4.02 CONFORMITY WITH CONTRACT REQUIREMENTS

A. All work performed and all materials furnished by the Contractor shall be in conformity with the Contract requirements.

B. In the event the University finds the materials or the finished product in which the materials are used or the work performed are not in complete conformity with the Contract requirements and have resulted in an inferior or unsatisfactory product, the work or materials shall be removed and replaced or otherwise corrected by and at the expenses of the Contractor.

C. In the event the University finds the materials or the finished product in which the materials are used are not in complete conformity with the Contract requirements, but have resulted in a satisfactory product, the University shall then determine if the work shall be accepted. In this event, the University will document the basis of acceptance by a Change Order, which will provide for an appropriate adjustment in the Contract price. Acceptance of the Work will be contingent upon the Contractor’s acceptance of a Contract Amendment incorporating the Change Order.

4.03 ADJACENT WORK

A. The University shall have the right, at any time, to contract for and perform other work on, near, over, or under the work covered by the Contract. In addition, other work may be performed under the jurisdiction of another State agency. The Contractor shall cooperate fully with other contractors and carefully fit Contractor’s own work to such other as may be directed by the University.

B. The Contractor agrees that in event of dispute as to cooperation or coordination with adjacent contractors, the University will act as referee and decisions made by the University will be binding. The Contractor agrees to make no claims against the University or the State of Maryland for any inconvenience, delay, or loss experienced by Contractor because of the presence and operations of

other contractors.

4.04 CONTROL BY THE CONTRACTOR

A. The Contractor shall constantly maintain efficient supervision of the work, using best skill and coordinating ability. Contractor shall carefully study and compare all drawings, specifications, and other instructions and check them against conditions existing, or being constructed, on the project. Contractor shall at once report to the University and the Architect/Engineer any error, inconsistency, or omission which is discovered.

B. On applicable projects, the Contractor shall schedule and conduct regular progress meetings every other week, and as directed by the University, at which Subcontractors, University, Architect/Engineer, and other designated representatives, and the Contractor can discuss such matters as progress, scheduling, and work-related issues. The Contractor is responsible for taking meeting notes and distributing the notes to all invited parties within three (3) working days after such meetings. The meeting notes are the product of the Contractor. Failure of the University to respond to the notes is not deemed to be acceptance as to accuracy.

4.05 COOPERATION WITH UTILITIES

A. It is understood and agreed that the Contractor has considered in Contractor's bid all of the permanent and temporary utility appurtenances in their present or relocated positions and that no additional compensation will be allowed for normal delays, inconvenience, or damage sustained by Contractor due to any interference from utility appurtenances, the operation of moving them, or the making of new connections, if required by the Contract documents.

B. The Contractor shall have responsibility for notifying all affected utility companies prior to the necessity of performing any work on their utilities and shall cooperate with the utility companies in achieving the desired results. All damage to utility facilities caused by the Contractor's operations shall be the responsibility of the Contractor.

C. At points where the Contractor's operations are adjacent to properties of railway, telegraph, telephone, water, and power companies, or are adjacent to other property, damage to which might result in expense, loss, or inconvenience, work shall not be commenced until all arrangements for necessary protection have been made by the Contractor.

D. The Contractor shall cooperate with the owners of any underground or overhead utility lines in their removal and rearrangement operations in order that these operations may be reduced to a minimum and that services rendered by those parties will not be unnecessarily interrupted.

E. The Contractor shall promptly notify the proper authority in the event of interruption to utility services as a result of accidental breakage, or as a result of being exposed or unsupported, and shall cooperate with the authority in the restoration of service. No work shall be undertaken around fire hydrants until provisions for continued service have been approved by the local fire authority.

F. Utility outages shall be kept to a minimum and will be permitted only with the written approval of

the University's Office of Facilities Management. All requests for outages shall be made a minimum of ten (10) working days in advance of their need. Requests for outages will not be considered unless the request includes an identification of all areas which will be affected by the proposed outage.

4.06 AUTHORITY AND DUTIES OF UNIVERSITY INSPECTORS

A. University inspectors shall be authorized to inspect all Work done and all material furnished. Such inspection may extend to all or any part of the Work and to the preparation, fabrication, or manufacture of the materials to be used. The inspector is not authorized to revoke, alter, or waive any requirements of the Contract, nor is the inspector authorized to approve or accept any portion of the complete Project. The inspector is authorized to call the attention of the Contractor to any failure of the work or materials to conform to the contract, and authorized to reject materials or suspend the Work until any questions at issue can be referred to and decided by the University. Inspectors shall perform their duties at such times and in such manner as will not unnecessarily impede progress on the Contract.

B. The inspector shall in no case act as foremen or perform other duties for the Contractor, nor interfere with the management of the work by the latter.

C. Any advice which the inspector may give the Contractor shall not be construed as binding the University in any way or releasing the Contractor from fulfilling all the terms of the Contract. The duty of the inspector on the project is to observe the progress of the Work and to report any deviations from the requirements of the Contract documents; however, should the inspector fail to report any such deviation from the Contract requirements, this does not release the Contractor from fulfilling all of the terms of the Contract.

D. Where there is disagreement between the Contractor and the inspector, the inspector will immediately direct the University's and the Architect/Engineer's attention to the issues of disagreement, and if the Contractor still refuses to make corrections, comply or suspend work, the University will prepare and deliver in writing to the Contractor, by mail or otherwise, a written order suspending the Work and explaining the reason for such shutdown. as soon as the inspector shall immediately leave the site of the Work and any Work performed during the inspector's absence will not be accepted or paid for and may be required to be removed and disposed of at Contractor's expense.

4.07 INSPECTION OF THE WORK

A. Work, including the fabrication and source of supply, is subject to observation by the Architect/Engineer and to the University's Office of Facilities Management's right to inspect specific items.

B. The Contractor shall provide facilities for access and inspection as required by the University.

C. If the specifications, the Office of Facilities Management's instructions, law, ordinances, or any public authority require any work to be specially tested or approved, the Contractor shall give the Office of Facilities Management timely notice of its readiness for inspection, and if inspection is by

another authority, the date fixed for such inspection. Inspections by the Office of Facilities Management shall be made promptly and where practicable at the source of supply. Any work covered without approval of the University must, if required by the Architect/Engineer or the Office of Facilities Management, be uncovered, and then recovered, for examination at the Contractor's expense.

4.08 REMOVAL OF DEFECTIVE WORK

A. All work and materials which do not conform to the requirements of the Contract will be considered unacceptable.

B. Any unacceptable or defective work, whether the result of poor workmanship, use of defective materials, damage through carelessness, or any other cause, found to exist shall be removed and replaced by work and materials which shall conform to the Contract requirements or shall be remedied otherwise in an acceptable manner authorized by the University.

C. Upon failure on the part of the Contractor to comply promptly with any order of the University, made under the provisions of this section, the University shall have authority to cause defective or unacceptable work to be remedied or removed and replaced and unauthorized work to be removed and to deduct the costs from any monies due or to become due the Contractor under this Contract.

4.09 MAINTENANCE OF WORK DURING THE PROJECT

A. The Contractor shall maintain the Work during the Project and until acceptance. This maintenance shall be continuous and effective, prosecuted with adequate equipment and forces to the end that all parts of the work be kept in satisfactory condition at all times and protected from damage of any kind from external sources.

B. Particular attention shall be given to drainage, both permanent and temporary. The Contractor shall use all reasonable precautionary measures to avoid damage or loss that might result from accumulations and concentrations of drainage shall be diverted or dispensed when necessary to prevent damage to excavation, embankments, surfaces, structures, or property. Suitable measures shall be taken by the Contractor to prevent the erosion of soil in all construction areas where the existing ground cover has been removed. Such measures shall be in compliance with the requirements of any governmental entity having jurisdiction.

C. All cost of maintenance work during the project and before final acceptance shall be included in the base bid and the Contractor will not be paid any additional amount for such work.

D. In the event that the Contractor's work is halted by the University for failure to comply with the provisions of the Contract, the Contractor shall maintain the entire project as provided herein, and provide such ingress and egress for local residents or tenants adjacent to the project site, for tenants of the project site, and for the general public as may be necessary during the period of suspended work or until the Contractor has been declared in default.

E. On projects where pedestrian or vehicular traffic flow is maintained, the Contractor shall be

responsible for repair and restoration of all traffic damage to the work, either partially or totally completed, until such time as the work is accepted by the University.

F. If the Contractor shall at any time, fail to comply with these provisions, the University shall immediately notify the Contractor. In the event that the Contractor fails to remedy unsatisfactory maintenance within 24 hours after receipt of such notice, the University will immediately proceed with adequate forces and equipment to maintain the project, and the entire cost of this maintenance will be deducted from monies due the Contractor, without in anyway limiting the right of the University to enforce any and all other remedies to which it is entitled by law or under the Contract.

4.10 UNIVERSITY'S RIGHT TO DO WORK

If the Contractor should neglect to prosecute the work properly or fail to perform any provision of the Contract, the University, after three (3) days' written notice to the Contractor, may make good such deficiencies and may deduct the cost thereof from the monies then or thereafter due the Contractor, without in anyway limiting the right of the University to enforce any and all other remedies to which the University is entitled by law or under the Contract.

4.11 AUTHORITY OF OFFICE OF ENVIRONMENTAL SAFETY AND HEALTH

A. The University of Maryland, Baltimore County's Office of Environmental Safety & Health (ESH) is responsible for promoting a safe and healthful work environment for the University and for assuring compliance with Federal and State environmental protection regulations and University safety and health practices. To carry out these responsibilities, ESH shall be authorized to inspect the project, all work done and being done, and all material to be furnished and being furnished. In the event that ESH uncovers an unsafe condition, ESH is authorized to suspend work, after notice to the Procurement Officer and the Office of Facilities Management, until the unsafe condition is cured by the Contractor. The "unsafe condition" shall mean any practice that represents a significant risk of injury or health hazard to University or Contractor employees or subcontractors, a significant adverse environmental impact, or a physical hazard which could result in damage to University property or the public. The authority of ESH is in addition to any other rights of the University.

B. If the Work will require entry into a confined space as defined by OSHA, the Contractor shall submit proof of a Confined Space Program to The University's Office of Environmental Safety & Health for verification prior to the start of the project.

4.12 IDENTIFICATION

A. The Contractor shall obtain identification for employees and subcontractor employees from the University. Applicable costs for identification are the Contractor’s responsibility. The University Project Manager shall approve all applications for campus identification. Employee identification shall be visible at all times while on campus.

B. All vehicles and mobile equipment shall be identified with the Contractor's name displayed in a highly visible manner.

4.13 NOISE CONTROL

A. The Contractor shall execute the Work as quietly as practicable to avoid unnecessary disturbances. Use of audio devices will not be allowed on the project site other than two-way communication radios.

B. Any complaints duly registered by the University of unacceptable noise levels shall be cause for the use of special precautions and methods of operation by the Contractor to reduce noise to acceptable levels. The University shall be the sole judge of the tolerability of noise levels.

4.14 PARKING

A valid UMBC parking permit is required for non-metered parking spaces on campus. The University's Project Manager will act as the point of contact for the coordination between UMBC parking services and the Contractor and subcontractors for the issuance of contractor permits.

Failure to display parking permit, or parking in unauthorized locations, may result in issuance of a citation. A parking violation issued against a vehicle without a permit will be charged to the registered owner of the vehicle.

4.15 DRIVING RULES AND REGULATIONS

Maryland State Motor Vehicle Laws apply to and are enforceable on UMBC campus. Operators of motor vehicles shall have in their possession a valid operator's license and proof of insurance. Vehicles shall display a valid license plate in plain view.

Drivers shall have their vehicles under control at all times. Vehicles may not be operated in a manner that endangers the life or safety of the driver, passengers, or pedestrians. With the campus environment, drivers should be alert for pedestrians and bicyclists, as well as vehicles backing out of parking spaces into traffic, and yield right-of-way as required by State law and as needed to maintain a safe environment for the campus community.

Vehicle operators shall obey lawful directions of University police officers. Vehicles may only be driven on paved roads and parking areas intended for that purpose. Driving is not permitted on sidewalks, walkways, lawns, vegetated areas, or similar spaces, unless directed to do so by a University police officer, or otherwise approved in writing.

In the event that vehicle access beyond Driving Areas is unavoidable, Contractor shall request permission in writing and shall provide details including purpose, proposed route, and duration. The University shall consider Contractor requests for vehicle access beyond Driving Areas on a case-by-case basis. Site construction areas will be handled on a case-by-case basis to comply with the indicated limit of disturbance.

4.16 KEYS

Keys shall only be issued to a Contractor with proper authorization. Keys shall be requested and issued only as required, i.e. master keys shall not be issued when individual keys will suffice. When a key is required, the FM Project Manager, Inspector, or other approved authorized individual shall issue an authorization form to the Contractor. This form shall be presented to the Work Control

Center, who will issue the key to the person presenting the form. Keys shall be returned each day to Work Control before end of business except when specifically authorized for nighttime or weekend work. The Work Control Center closes at 4:00 p.m. However, the Central Plant Boiler Room is open twenty-four hours a day, seven days per week and keys may be returned to the Central Plant if the Work Control Center is closed. Keys are not to be taken off-campus. University keys, in the possession of Contractor's personnel, may not be loaned to others, tampered with, or duplicated.

4.17 PRESS RELEASES

The Contractor may not issue any press release for any printed or digital publication, including newspaper or media, without obtaining the prior written approval of the issuance and the text of the release from University in each instance.

SECTION 5: MATERIALS

5.01 GENERAL

A. All materials shall meet all quality requirements of the Contract. In order to expedite the inspection and testing of materials, the Contractor shall notify the University and the Architect/Engineer in writing of the sources from which the Contractor proposes to obtain all materials requiring approval, testing, inspection, or certification prior to incorporation into the work as soon as possible after receipt of notification of award of the Contract.

B. Materials include all manufactured products and processed and unprocessed natural substances required for completion of the Contract. The Contractor, in accepting the Contract, is assumed to be thoroughly familiar with the materials required and their limitations as to use, and requirements for connection, setting, maintenance, and operation. Whenever an article, material, or equipment is specified and a fastening, furring, connection (including utility connections), access hole, flashing closure piece, bed, or accessory is normally considered essential to its installation in good quality construction, such shall be included as if fully specified. Nothing in these specifications shall be interpreted as authorizing any work in any manner contrary to applicable laws, codes, or regulations.

C. Approval -- All materials are subject to the University's approval as to conformity with the specifications, quality, design, color, etc. No work for which approval is necessary shall be used until written approval is given by the University and Architect/Engineer. Approval of a subcontractor or supplier as such does not constitute approval of a material which is other than that included in the specifications.

D. New Materials -- Unless otherwise specified, all materials shall be new. Old materials may not be used as substitutes for new, regardless of condition or repair, unless approved in writing by the University.

E. Quality -- Unless otherwise specified, all materials shall be of the best quality of the respective kinds.

F. Samples -- The Contractor shall furnish for approval all samples as directed. The materials used shall be the same as the approved samples.

G. Proof of Quality -- The Contractor shall, if requested, furnish satisfactory evidence as to the kind and quality of materials either before or after installation. Contractor shall pay for any tests or inspections called for in the specifications and any tests as may be deemed necessary for "substitutions".

H. Standard Specifications -- When no specification is cited and the quality, processing, composition, or method of installation of a thing is only generally referred to, then:

(1) For items not otherwise specified below, the latest edition of the applicable American Society for Testing Materials specification is the applicable specification.

(2) For items generally considered as plumbing and those items requiring plumbing connections, the applicable portions of the latest edition of the B.O.C.A. Code are the applicable specifications.

(3) For items generally considered as heating, refrigerating, air-conditioning, or ventilating, the applicable portions of the latest edition of the A.S.H.R.A.E. Handbook published by the American Society of Heating, Refrigerating, and Air- Conditioning Engineers, Inc., are the applicable specifications.

(4) For items generally considered as site work, the applicable portions of the Maryland S.H.A. Standard Specifications are the applicable specifications.

(5) For items generally considered as electrical, the applicable provisions of the latest edition of the National Electric Code are the applicable specifications.

(6) For items generally considered as fire protection, the applicable portion of the latest edition of the National Fire Protection Association Code are the applicable specifications.

I. Upon request, the Contractor shall provide the University with Safety Data Sheets for any products or materials being used on University premises.

5.02 STORAGE AND HANDLING OF MATERIALS

A. Materials shall be stored in a manner to assure the preservation of their quality and acceptability for the work. Stored materials, even though approved before storage, may again be inspected prior to their use in the work. Stored materials shall be located so as to facilitate their prompt inspection. Approved portions of the project site may be used for storage purposes and for the placing of the Contractor's plant and equipment. Such storage areas must be restored to their original condition by the Contractor at Contractor’s expense. If off-site storage is used, Contractor shall provide the necessary copy of the insurance policy with the University as the certificate holder.

B. Materials shall be handled in such a manner as to preserve their quality and acceptability for the work.

C. Contractor shall confirm the apparatus and the storage of materials to the area delineated in the Contract documents as the "Limit of Contract."

D. Explosives --

(1) Explosives may not be stored upon any property belonging to the University.

(2) Should the Contractor desire to use explosives on any projection University property, the Contractor shall first receive written approval of the President. The approval will be coordinated through the University's Project Manager and stipulate time, place, and quantity to be used and manner of use.

(3) The Contractor shall assume all responsibility for injury to persons or property damage which may result from the use or transportation of explosives, as well as comply with any and all ordinances, regulations, and restrictions in relation to the use of explosives.

E. Oil base paints and inflammable liquids may not be stored in large quantities on the project. Containers shall be limited to five (5) gallon size. Any liquid with a flash of point of less than one hundred (100) shall be contained in safety cans, UL approved. Liquid with a higher flash point shall be stored in rigid cans. Glass containers may not be used. Oily rags, waste, etc., shall be removed from the work site at the close of each working day.

5.03 SUBSTITUTIONS

A. Should the Contractor desire to substitute another material for one or more specified by name, the Contractor shall apply to the University, in writing, for permission and state the credit or extra cost involved by the use of the substituted material. The University will not consider the substitution of any material different in type or construction methods unless the substitution affects a benefit to the University.

B. The Contractor may not submit for approval materials other than those specified without a written statement that such a substitution is proposed. Approval of a "substitute material" by Architect/Engineer when the Contractor has not designated such material as a "substitute", shall not be binding on the University, and will not release Contractor from any obligations of this Contract, unless the University approves such "substitution" in writing. The University, at its discretion, may approve a "substitute material" as a Substitution after the fact. Such approval, if given, shall be set out in writing.

C. A material which is an approved equal is not defined as a substitution under this clause.

5.04 APPROVED EQUALS

The terms "Or Equal", "Equal", and "Approved Equal" are used as synonyms throughout the specifications and are implied in reference to all named manufacturers in the specifications unless otherwise stated. Only materials fully functionally equal or superior in all details and characteristics will be considered to be approved equals. The Contractor shall apply to the University in writing for confirmation that a material is an approved equal. The University's Office of Facilities Management

is the final judge as to equality.

5.05 CONTRACTOR'S OPTIONS
When several products or manufacturers are named in the specifications for the same purpose of use, then the Contractor may select between of the named products or manufacturers. However, after a selection is made for a project, the same material or manufacturer shall then be used for all of the required units.

5.06 TESTS

A. If the Contract documents, laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction require any portion of the work to be inspected, tested, or approved, the Contractor shall provide the University and the Architect/Engineer timely notice of the work's readiness so the Architect/Engineer may observe such inspection, testing, or approval. The Contractor shall bear all costs of such inspections, tests, or approvals conducted by public authorities.

B. The University reserves the right to require special inspection, testing or approval which the Contract documents do not include, and instruct the Contractor to order such special inspection, testing, approval, and the Contractor shall provide timely notice of readiness. If such special inspection or testing reveals a failure of the work to comply with the requirements of the Contract documents, the Contractor shall be responsible for all costs to correct the failure, including compensation for the Architect/Engineer's additional services made necessary by such failure or for any costs paid by the University.

C. Required certificate of inspection, testing, or approval shall be secured by the Contractor and promptly delivered by the Contractor to the University and the Architect/Engineer.

5.07 BUY AMERICAN STEEL
Only steel products made in the United States shall be used or supplied in the performance of the Contract or any subcontract. Steel products include products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated, or otherwise similarly processed from steel made in the United States. This requirement shall not apply if the University shall have determined that the cost of such steel products is unreasonable or inconsistent with the public interest. The provisions of this Section shall not apply where the provisions are in conflict with any Federal grant or regulation affecting the project.

5.08 SALES TAX
Supplies and materials purchased by a Contractor or subcontractor in connection with University Maintenance Projects are not tax exempt.

5.09 HAZARDOUS MATERIALS

A. The use or handling of regulated materials, including asbestos or PCB, shall be strictly governed by Federal, State, and Local regulations.

B. No Contractor furnished material or product containing any asbestos in any form may be used on a project.

C. Contractor shall remove any and all materials covered under the hazardous waste regulations upon

completion of the project.

D. It is assumed that hazardous materials are not present within the areas of work in the existing buildings unless expressly indicated by the University in the scope or work or specifications for a particular project, but the Contractor is advised to remain alert to the possibility of encountering hazardous materials during the course of the Work. In the event that hazardous materials are encountered and must be handled, the Contractor shall immediately stop all work within the affected area and notify the University's Project Manager for instructions. The Contractor shall coordinate and cooperate with the hazardous material removal contractor in the removal of hazardous materials within the areas of work under the project.

SECTION 6: LEGAL RELATIONS AND RESPONSIBILITIES

6.01 LAWS TO BE OBSERVED

A. The Contractor shall keep fully informed of all Federal, State, and Local laws, ordinances, and regulations and all orders and decrees of bodies or tribunals having any jurisdiction or authority, which in any manner affect those engaged or employed on the work or which in any way affect the conduct of the work. Contractor shall at all times observe and comply with all such laws, ordinances, regulations, orders, and decrees. Contractor shall protect and indemnify the University and the State of Maryland and its representatives against such claim or liability arising from or based on the violation of any law, ordinance, regulation, order, or decree, whether by the Contractor, Contractor's employees, or subcontractors.

B. The Contractor shall comply with the provisions of the Workmen's Compensation Act and Federal, State, and County laws relating to hours of labor.

C. The provisions of this Contract shall be governed by the Laws of Maryland.

D. The Contractor shall give all notices and comply with all State and Federal laws, ordinances, rules, and regulations bearing on the conduct of the work as drawn and specified.

E. If the Contractor observes that the drawings and specifications are at variance with any law, Contractor shall promptly notify the Architect/Engineer, and any necessary changes shall be adjusted as provided in the Contract for changes in the work. If the Contractor performs any work knowing the performance to be contrary to such laws, ordinances, rules, and regulations, and without such notice to the Architect/Engineer, Contractor shall bear all costs arising as a result of the performance, including without limitation fines, penalties, and correction or replacement of work and materials.

6.02 PERMITS AND LICENSES

A. The University shall file with the appropriate local authority drawings and specifications and any pertinent data reasonably proper for their information. No permits are applicable for work on University property with the exception of (1) any permits required in the specifications and (2) How Work permit.

B. Any permits required for work on non-University property are the responsibility of the Contractor in terms of the permit acquisition, associated cost, and all obligations and liability under the permit.

C. Any permits required by the specifications (i.e., Air and Radiation Management Administration boiler permits, etc.) are the responsibility of the Contractor in terms of the permit acquisition, associated cost, and all obligations and liability under the permit.

D. Before any welding, burning, grinding, pipe sweating, brazing, or other activity that creates heat, flame, or sparks is started a hot work permit shall be obtained from The University's Office of Environmental Safety & Health (ESH). This permit shall be requested from ESH at least two (2) days prior to the anticipated hot work. The completed hot work permit shall be posted at the location of the work to be performed for the duration cited in the permit. At the end of the requested time permit, the permit shall be removed.

6.03 PATENTED DEVICES, MATERIALS, AND PROCESSES

The Contractor shall pay for all royalties and license fees. Contractor shall defend all suits or claims for infringement of any patent rights and shall save the University and the State of Maryland harmless from loss on account thereof, except that the University shall be responsible for any such loss when a particular process or the product of a particular manufacturer or manufacturers is specified by the Contractor as the University's responsibility; however, if the Contractor has information that the process or articles specified is an infringement of a patent, Contractor shall be responsible for such loss unless Contractor promptly provides such information to the Procurement Officer.

6.04 LAND, AIR, AND WATER POLLUTION

A. The Contractor shall incorporate all permanent erosion control features into the work at the earliest practicable time. Temporary pollution control measures will be used to correct conditions that develop during the project that were not foreseen during design, that are needed prior to installation of permanent pollution control features, or that are needed temporarily to control erosion that develops during normal construction practices, but are not associated with permanent control features on the project.

B. The Contractor's attention is directed to the fact that temporary pollution control may include measures outside the project site where such work is necessary as a direct result of the project. The University's Office of Facilities Management shall be kept advised of all such off-site control measures taken by the Contractor. This advise shall not relieve the Contractor of the basic responsibilities for such work.

C. In case of failure on the part of the Contractor to control erosion, pollution, and siltation, the University's Office of Facilities Management reserves the right to employ outside assistance or to use its own forces to provide the necessary corrective measures. All expenses incurred by the University's Office of Facilities Management in the performance of such duties for the Contractor shall be withheld from monies due to the Contractor.

D. The Contractor shall submit evidence to the University's Office of Facilities Management that the governing Federal, State, and Local Air Pollution criteria will be, and were, met. This evidence and

related documents will be retained by the University's Office of Facilities Management for onsite examination.

E. If the performance of all or any part of the Work is suspended, delayed, or interrupted due to an order of a court of competent jurisdiction as a result of environmental litigation, as defined below, the Procurement Officer, at the request of the Contractor, shall determine whether the order is due in any part to the acts or omissions of the Contractor required by the University as one of the terms of this Contract. If it is determined that the order is due in any part to acts or omissions of the Contractor required by the terms of the Contract, such suspension, delay, or interruption shall be considered as if ordered by the Procurement Officer in the administration of this Contract under the terms of the "Suspension of Work" clause of this Contract. The period of such suspension, delay, or interruption shall be considered reasonable, and an adjustment shall be made for any increase in the cost of performance of this Contract (excluding profit) as provided in the suspension of work clause.

F. The term "environmental litigation", as used herein, means a lawsuit alleging that the Work will have an adverse effect on the environment or that the University has not duly considered, either substantively or procedurally, the effect of the Work on the environment.

6.05 CONTRACTOR'S LIABILITY INSURANCE

A. Upon Contract execution, the Contractor shall purchase and maintain at Contractor's own expense insurance applicable to all claims which may arise out of or result from the Contractor's operations under the Contract, whether such operations be by the Contractor, by any subcontractor or sub-subcontractor, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. All insurance except Workmen's Compensation shall name the University of Maryland, Baltimore County, the University System of Maryland, and the State of Maryland as an additional insured.

B. The insurance coverage shall be written for not less than the following limits of liability unless authorized by the Procurement Officer based on the specifics of a particular project.

(1) Worker's Compensation Insurance and Unemployment as required by the laws of the State of Maryland.

(2) Employer's liability insurance - - $1,000,000 each accidental injury or disease, and $2,000,000 aggregate.

(3) Comprehensive general liability insurance including all extensions
$2,000,000 each occurrence
$2,000,000 personal injury
$2,000,000 products/completed operations
$2,000,000 general aggregated

(4) Property damage liability insurance with a limit of not less than $2,000,000 for each accident

(5) Business automobile

(a) bodily injury liability with limits of not less than $1,000,000 for each person and $2,000,000 for each accident

(b) property damage liability insurance, with a limit of not less than $2,000,000 for each accident

(6) Umbrella excess liability - - $5,000,000 limit.

Limits of insurance may be achieved either singularly, or by combination of applicable coverage, as long as limits are met without reducing another insurance's required limits.

The Comprehensive General Liability Insurance for bodily injury and property damage, including loss of use of property, arising out of any occurrence shall include the following extensions:

(1) Products and completed operations coverage for a period of at least two years;

(2) Personal injury liability coverage (including contractual coverage);

(3) Contractual liability insurance to cover the Contractor's obligation to the University, USM, and the State of Maryland;

(4) Broad form property damage (including completed operations);

(5) Independent contractor's coverage;

(6) "X", "C", and "U" coverage applying to explosion, collapse of other structures and underground foundations; and

(7) If the work involves containment or removal of asbestos, pollution liability (environmental protection liability) coverage.

The business automobile liability insurance shall pay for liabilities arising out of accidents involving the ownership, operation, maintenance or use including the loading or unloading of any automobile.

C. Satisfactory proof of purchase of required insurance shall be furnished on the Accord format for certificates prior to execution of the Contract, upon execution of the Contract Amendment, and upon renewal of any policy, and upon obtaining any new insurance policy. Certificates shall also be provided prior to commencement of a particular project upon request of the procurement officer. Certificates shall be amended to indicate: "Should any of the described policies be canceled before the expiration date thereof, or non-renewed, the issuing company will provide thirty (30) days prior written notice to the certificate holder," each Certificate should indicate the insurer, the appropriate policy number, the policy expiration date, the limits of liability in effect, and the Best's rating and financial rating of the insurer. A certificate shall be accepted only if signed by an authorized representative of the insurer.

D. Insurance certificates will be accepted only from an insurer having a minimum Best's rating of

Class A for the policyholders' rating and Class IX for the financial rating. Insurers must be authorized to do business under the laws of the State of Maryland. The University reserves the right to request in writing a complete copy of any Contractor's insurance policy inclusive of declarations and riders, and if so requested, the Contractor shall comply within ten (10) days of the request.

E. No work shall be started at the site until appropriate certificates of insurance are filed with and approved by the procurement officer.

F. Certificates of insurance shall be submitted to the Procurement Officer for review and approval and shall be held by the Procurement Officer for the duration of the Contract. The University shall have the absolute right to terminate the Contract if the policy of insurance is canceled at any time for any reason and a new policy effective immediately thereafter is not obtained by the Contractor and approved by the procurement officer.

6.06 BUILDER'S RISK INSURANCE

A. For projects with a value greater than $500,000 or otherwise required by the Specifications, the Contractor shall purchase and maintain builder's risk insurance naming as additional insured the University of Maryland, Baltimore County, the University System of Maryland, the State of Maryland, the Contractor, any subcontractor, or anyone directly or indirectly employed by any of them. The University and State shall be loss payees as their interests may appear.

B. The builder's risk policy shall cover any and all materials, equipment, machinery, and supplies of any nature whatsoever, intended to be used in or incidental to the completion of a project under the Contract, but coverage shall apply to property on the project site, property in transit, and property in temporary storage at locations other than the project site which property is designated to become a permanent part of the insured project.

C. The limits of insurance (without any coinsurance conditions applying) shall be the full value of the project when completed. Deductibles are allowed only if reported to the University, which shall not unreasonably withhold consent. The Contractor shall be responsible for paying the amount of the deductible to the University or State in the event of a claim by either or both of them which is within the coverage of the builder's risk policy. Coverage shall be on a full replacement cost basis with no deductions for actual physical depreciation.

D. Insurance shall be against all risks of direct physical loss of or damage to the insured property including theft; earthquake; flood; and settling, shrinkage or expansion of buildings or foundations other than normal settling shrinkage or expansion. Any fault, defect, error or omission exclusion shall not apply to damage resulting from such fault, defect, error or omission in the design plans or specifications. Any faulty or defective workmanship or internal exclusion clause shall not apply to damage resulting there from.

E. The term of the builder's risk insurance shall continue until issuance of the substantial completion certificate on the project by the University.

F. Satisfactory proof of purchase of required insurance shall be furnished to the University prior to

commencement of the project, upon renewal of any policy, and upon obtaining any new insurance policy. All policies of insurance shall provide that the policy shall not be subject to cancellation termination, or reduction in coverage, except after thirty (30) days prior written notice to the University. At the Procurement Officer's sole discretion, upon written request, Contractor shall deliver to the University a copy of any policy of the required insurance.

G. The Contractor shall adjust the amount of the builders risk insurance from time to time to reflect any increase or decrease in the Project over the amount of $100,000 or 10% of the original Contract value, whichever is greater. For any such additions, the Contractor will be reimbursed by the University in the amount of the actual amount of the increased insurance cost. For any decrease, the Contractor will credit the University the actual amount of the decreased insurance cost. The Contractor shall provide updated certificates that reflect the increase or decrease within ten (10) working days of the request of the Procurement Officer.

6.07 ASSIGNMENTS

The Contractor shall not assign the Contract or any monies due or to become due without the prior consent of the University.

6.08 SEPARATE CONTRACTS

A. The University reserves the right to let other contracts in connection with this work. Contractor shall afford other contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work, and shall properly connect and coordinate Contractor's work with theirs.

B. If any part of the Contractor's work depends for proper execution or results upon the work of any other contractor, the Contractor shall inspect and promptly report to the University any defects in such work that render it unsuitable for such proper execution and results. Contractor's failure to inspect and report shall constitute an acceptance of the other contractor's work as fit and proper for the reception of Contractor's work, except as to the defects which may develop in the other contractor's work after the execution of Contractor's work.

C. To insure the proper execution of Contractor's subsequent work, the Contractor shall measure work already in place and shall immediately report to the University any discrepancy between the executed work and the drawings.

6.09 PAYMENT OF SUBCONTRACTORS

A. Neither the final payment or any part of the retained percentage shall become due until the Contractor shall deliver to the University receipt for full payment to all subcontractors and any principal suppliers identified by the University.

B. If any subcontractor or supplier refuses to provide a receipt for payment, the Contractor may obtain final payment by providing the University with a bond satisfactory to the University for payment to subcontractors or suppliers as a condition of fulfilling any contractual obligation (including warranties) or losses resulting from subcontractors' or suppliers' failure to fulfill such obligations. Under the bond the Contractor shall refund the University all monies paid to subcontractors or losses

incurred, including all costs and reasonable attorney's fees.

C. The Contractor shall promptly pay a subcontractor (and shall cause subcontractors to pay sub-subcontractors) any undisputed to which the subcontractor (or sub-subcontractor) is entitled for work under this Contract within 10 days of receiving a progress or final payment from the University. In the event the Contractor fails to pay promptly, subcontractors may request remedy in accordance with COMAR 21.10.08. In each subcontract under this contract, the Contractor shall include a clause that contains substantially the same provisions as this clause.

6.10 RELATIONSHIP OF CONTRACTOR TO PUBLIC OFFICIALS AND EMPLOYEES

A. In carrying out any of the provisions of the Contract, or in exercising any power or authority granted to them by or within the scope of the Contract, there shall be no liability upon the Procurement Officer or other authorized representatives of the University, it being understood that in all such matters they act solely as agents and representatives of the University.

B. Prohibition Against Gratuities -- The University may terminate the right of the Contractor to proceed under the Contract if it is found by the Procurement Officer that gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the University with a view toward securing a Contract or securing a favorable treatment with respect to the awarding or amending or the making of any determination with respect to the performing of the Contract. The facts upon which the Procurement Officer makes such findings may be reviewed in any competent court.

C. In the event this Contract is terminated for cause under this section, the University shall be entitled to pursue the same remedies against the Contractor as the University could pursue in the event of a breach of the Contract by the Contractor. In addition to any other damages to which it may be entitled by law, the University may pursue exemplary damages in an amount as determined by the Procurement Officer which shall be not less than three (3) nor more than ten (10) times the costs incurred by the Contractor in providing any gratuities to any officer or employee.

D. The rights and remedies of the University provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.

E. Conflict of Interest -- An official or employee of the State of Maryland whose duties include matters relating to or affecting the subject matter of the Contract, may not during the pendency and term of this contract and while serving as an official or employee of the State become or be an employee of the Contractor or any entity that is a subcontractor for a project under the Contract.

6.11 NO WAIVER OF LEGAL RIGHTS

A. The University and the State of Maryland may not be precluded or estopped by any measurement, estimate, or certificate made either before or after the completion and acceptance of the work and payment, from showing the true amount and character of the work performed and materials furnished by the Contractor, or from showing that any such measurement, estimate, or certificate is untrue or is incorrectly made, or from showing that the work or materials do not in fact conform to the

requirements of the Project. The University and the State of Maryland may not be precluded or estopped, notwithstanding any such measurement, estimate, or certificate, and payment from recovering from the Contractor or Contractor's sureties, or both, any damage as the University may sustain by reason of the Contractor's failure to comply with the terms of the Contract. The acceptance by the University or any representative of the University may not operate as a waiver of any portion of the Contractor's responsibilities or of any power of the University or of any right to damages.

B. The waiver by the University of any breach of the Contractor may not be held to be a waiver of any other or subsequent breach.

6.12 COVENANT AGAINST CONTINGENT FEES

The Contractor warrants that the Contractor has not employed or retained any person, partnership, corporation, or other entity other than a bona fide employee or agent working for the Contractor to solicit or secure the Contract, and that the Contractor has not paid or agreed to pay any person, partnership, corporation, or other entity other than a bona fide employee or agent, any fees or any other consideration contingent on the making of the Contract.

6.13 ASSIGNMENT OF ANTITRUST CLAIMS

The Contractor sells, transfers, and assigns to the University and the State of Maryland all right, title, and interest of and in to any cause of action arising at any time before the date of this assignment or during the performance of the Contract under the Antitrust Laws of the United States, including Section 1 of the Sherman Act and the Antitrust Law of Maryland relating to the purchase by Contractor, or the University and the State of Maryland, of any products from any supplier or source whatever that is incorporated in the structure built under the terms of the Contract. The Contractor certifies that the causes of action are lawfully owned and that no previous assignment has been made nor has been attached or pledged in any manner whatsoever.

6.14 FEDERAL PARTICIPATION

If the United States Government pays all or any portion of the cost of a project, the applicable work under the Contract shall be subject to inspection by the appropriate federal agency. Such inspection will not make the Federal government a party to the Contract and will not interfere in any way with the rights of either party.

6.15 DISPUTES

A. The Contract is subject to the USM Procurement Policies and Procedures. .

B. Except as otherwise provided in the Contract or by law, all disputes arising under or as a result of a breach of the Contract which are not disposed of by mutual agreement shall be resolved in accordance with this section.

C. As used herein, claim means a written demand or assertion by one of the parties seeking, as a legal right, the payment of money, adjustment, or interpretation of Contract terms or other relief, arising under or relating to the Contract. An invoice, or request for payment that is not in dispute when submitted is not a claim under this section. However, if the submission subsequently is not acted upon in a reasonable time or is disputed as to liability or amount, the submission may be converted to a

claim for the purpose of this section.

D. Within 30 days after the Contractor knows or should have known of the basis for a claim relating to the Contract, the Contractor shall file a written notice of claim with the Procurement Officer.

E. Contemporaneously with, or within 30 days after, the filing of a notice of claim, the Contractor shall submit the written claim to the Procurement Officer. Upon request, the Procurement Officer may extend the time in which the Contractor may submit the claim on conditions the Procurement Officer deems satisfactory to the University.

F. The claim shall set forth all the facts surrounding the controversy. At the discretion of the Procurement Officer, the Contractor may be afforded an opportunity to be heard and to offer evidence in support of the claim.

G. The Procurement Officer shall provide a written decision within:

(1) 90 days after the Procurement Officer receives the claim if the claim is an amount for which the Appeals Board accelerated procedure, as set forth in COMAR 21.10.06.12, may be used;

(2) 180 days after the Procurement Officer receives the claim for a claim not covered under the accelerated procedure; or

(3) a longer period of time agreed upon in writing by the Procurement Officer and the Contractor.

H. The final decision may award a contract claim only for those expenses incurred not more than thirty (30) days before the Contractor was initially required to have files the notice of claim.

I. The Procurement Officer's decision is the final action of the University. If the Procurement Officer fails to render a final decision within the time required, the Contractor may deem the failure to be a final decision not to pay the claim.

J. If the final decision grants the claim in part and denies the claim in part, the University shall pay the Contractor the undisputed amount. Payment of a partial claim is not an admission of liability by the University and does not preclude the University from recovering the amount paid if a subsequent determination modifies the final decision.

K. The Contractor may file a written appeal with the Maryland State Board of Appeals within thirty (30) days of receipt of notice of the final decision.

L. Pending resolution of a claim, the Contractor shall proceed diligently with the performance of the Contract in accordance with the Procurement Officer's decision.

6.16 CLAIMS

A. If the Contractor claims that any instructions by drawings or otherwise involve or may involve extra cost under this Contract, Contractor shall provide the University written notice within fifteen (15) calendar days after receipt of such instructions or after the occurrence of an emergency. No claim shall be valid unless notice is provided within the required time frame.

B. Under no circumstances will overhead or profit be permitted as items of a claim, if permitted at all under the Contract, when such overhead or profit is for periods during which a "Stop Work" order is in effect due to an act, error, or omission for which the Contractor is responsible.

C. No profit or overhead which includes rental of equipment and the salaries of supervisory personnel, if permitted at all under the Contract, will be allowed the Contractor for stoppage of work when written notice of such stoppage or impending stoppage is not given reasonable in advance by the Contractor so that the University can take action to prevent such stoppage.

D. No claim for extra costs will be granted which includes cost of delays or work stoppage due to strikes, lockouts, fire, unusually severe weather, avoidable casualties, or damage or delay in transportation for which the University is not responsible; only time extensions will be granted.

E. The Contractor and the University agrees that no prejudgment or postjudgement interest on any claims asserted by either party will be allowed.

F. No claim for damage caused by a delay, if permitted at all under the Contract, will be allowed unless the Contractor notifies the University of the existence of the delay within five (5) days of the act or omission causing the delay.

G. No payment will be made for increased payment or performance bond premiums as a result of any act or omission by the University which results in a claim.

6.17 VARIATIONS IN ESTIMATED QUANTITIES

Where any quantity of major pay item as defined in this Contract is an estimated quantity, and where the actual quantity of such pay item varies more than twenty-five percent (25%) above or below the estimated quantity in the Contract, an equitable adjustment of the stated price shall be made upon demand of either party. The equitable adjustment shall be based upon any increase or decrease in costs due solely to the variation above one hundred twenty-five percent (125%) or below seventy-five percent (75%) of the estimated quantity. If the quantity variation is such as to cause an increase in the time necessary for completion, the Procurement Officer shall, upon receipt of a written request for an extension of time within ten (10) days from the beginning of the delay, or within a further period of time which may be granted by the Procurement Officer before the date of final settlement of the Contract, ascertain the facts and make the adjustment for extending the completion date as the findings justify in the Procurement Officer’s judgment.

6.18 PRE-EXISTING REGULATIONS

In accordance with the provisions of Section 11-206 of the State Finance and Procurement Article of the Annotated Code of Maryland, any pertinent regulations in Title 21 of the Code of Maryland Regulations (COMAR) that are in effect on the date of the execution of the Contract are applicable to the Contract.

6.19 FINANCIAL DISCLOSURE

The Contractor shall comply with the provisions of Section 13-221 of the State Finance and Procurement Article, Annotated Code of Maryland, which requires that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during the calendar year under which the business is to receive in the aggregate $200,000 or more, shall, within thirty (30) days of the time when the aggregate value of these contracts, leases or other agreement reaches $200,000 file with the Maryland Secretary of State certain specified information to include disclosure of beneficial ownership of the business.

6.20 POLITICAL CONTRIBUTION DISCLOSURE

The Contractor shall comply with, and require its officers, director, and partners to comply with Title 14 of the Election Law Article, Annotated Code of Maryland, which requires that every person doing public business, and every individual whose contributions are attributable to the person entering into such an agreement, during a calendar year in which the person receives cumulative consideration of $200,000 or more from public business, shall file with the State Board of Elections a statement disclosing contributions in excess of $500 made during the reporting period to a candidate for elective office in any primary or general election.

6.21 COMPLIANCE WITH LAWS

The Contractor hereby represents and warrants that:

A. It is qualified to do business in the State of Maryland and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;

B. It is not in arrears with respect to the payment of any monies due and owing to the State of Maryland or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract;

C. It shall comply with all federal, State, and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and

D. It shall obtain, at its expense, all licenses, permits, insurance and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

6.22 DEWATERING

The Contractor shall obtain all necessary Water Appropriations and Water Discharge permits prior to activation of dewatering systems.

SECTION 7: PROSECUTION AND PROGRESS OF THE WORK

7.01 NOTICE TO PROCEED

For each project performed under this contract, the University will issue a “Notice to Proceed”. This notice to proceed may be provided in a variety of formats, including a task order contract, a formal letter, or some other document. The notice will stipulate the date on or before which the Contractor is

expected to begin work, and shall start the specified time for the project. Any preliminary work started or materials ordered before receipt of the notice to proceed, shall be at the Contractor's risk.

7.02 PROSECUTION OF THE WORK

A. Time is an essential element of the Contract and all time limits in the Contract documents are of the essence of the Contract. Contractor shall prosecute the Work and its obligations under the contract vigorously until full completion.

B. The date of commencement of Work is the date established in a Notice to Proceed.

C. If the Contractor is delayed at any time in the progress of the work by any act or omission of the University or any of its officers, agents, or employees or by any separate Contractor employed by the University, or by any changes ordered in the work, or by labor disputes, fire, unusual delay in transportation, unavoidable casualties, or by a cause which the Procurement Officer determines may justify any delay, then the Contract time will be extended for such time as the Procurement Officer may authorize.

D. It is expressly understood and agreed by and between the Contractor and the University that the time for the completion of the work is a reasonable time for completion of the same, taking into consideration the average climatic range and the usual business conditions prevailing in the locality of the project.

E. No extension shall be made for delay occurring more than five (5) days before a claim is made in writing to the University. In the case of continuing cause of delay, only one claim is necessary.

F. Total Float belongs to the project and shall not be for the exclusive benefit of either party. "Total Float" is the number of days an activity may be delayed before commencement or from the project's early dates without extending the Contract period. Total Float shall be available to University or Contractor and is intended to accommodate changes in the Work or to mitigate the effect of events which otherwise may delay Substantial Completion. Use of Total Float shall be monitored by the University's Project Manager. Use of Total Float is available to either party on a first come, first serve basis.

7.03 PUBLIC CONVENIENCE AND SAFETY

At all times, the Contractor shall conduct the work in such a manner as to create the least practicable obstruction to all forms of traffic. The convenience of the general public, tenants, and of the residents along or adjacent to the improvement shall be respected. Material stored upon the project shall be placed so as to cause a minimum of obstruction to the public. The Contractor shall, unless otherwise specified, provide and maintain in passable condition such temporary access, roads, and bridges as may be necessary to accommodate traffic diverted from the project under construction or using the project under construction, and shall provide and maintain in a safe condition temporary approaches to, and crossing of, the project. Existing facilities planned to be removed, but which might be of service to the public during construction, are not to be disturbed until other and adequate provisions are made. Fire hydrants on, or adjacent to, the project shall be kept accessible to fire apparatus at all times, and no materials or obstruction shall be placed within fifteen (15) feet of any such hydrant. Work closed down for the winter, or at any other time, shall be left entirely accessible at all points to

fire apparatus. All footways, gutters, sewer inlets, and portions of the project including the work under construction shall not be obstructed more than is absolutely necessary.

7.04 BARRICADES AND WARNING SIGNS

A. The Contractor shall provide, erect, and maintain all necessary barricades, suitable and sufficient lights, danger signals, signs, and other control devices, and shall take all necessary precautions for the protection of the work and safety of the public. All highways and other facilities closed to traffic shall be protected by effective barricades, and obstructions shall be illuminated during hours of darkness with electric lights.

B. The Contractor shall erect warning signs in advance of any place on the project where operations may interfere with the use of the facility by vehicular or pedestrian traffic, and at all other points where the new work crosses or coincides with an existing roadway or traffic lane. Such warning signs shall be constructed and erected in accordance with the FHWA Manual on Uniform Traffic Control Devices or as directed.

C. In cases where the Contractor's sequence of operations results in grade differentials which would be hazardous to vehicular or pedestrian traffic, the Contractor will, at the direction of the University's Office of Facilities Management and at no additional cost to the University, provide suitable substantial guardrail to the extent determined by that office.

7.05 PRESERVATION, PROTECTION, AND RESTORATION OF PROPERTY

A. The Contractor shall continuously maintain adequate protection of all Contractor’s work from damage and shall protect University property from injury or loss arising in connection with a project. Contractor shall repair and indemnify against any such damage, injury, or loss, except such as may be directly due to errors in the Contract documents or caused by agents or employees of the University. Contractor shall adequately protect adjacent property as provided by law and the Contract documents.

B. The Contractor shall box all trees along the way of access, as well as all trees surrounding the work which are liable to injury by the moving, storing, and working up of materials. A tree may not be used by the Contractor for attachment of any ropes or derricks.

C. The Contractor shall erect and properly maintain at all times, as required by the conditions and progress of the work, all necessary safeguards for the protection of workmen and the hazards created by such features of construction as protruding nails, hoists, well holes, elevator hatchways, scaffolding, window openings, stairways, and falling materials.

D. In any emergency affecting the safety of life or the work or of the adjoining property, the Contractor without special instruction or authorization is hereby permitted to act, at Contractor’s discretion, to prevent such threatened loss or injury. If Contractor is specifically instructed by the University's Office of Facilities Management to do work in an emergency, the Contractor shall do the work and will be paid compensation as a change order.

7.06 PROGRESS SCHEDULE AND TIME

A. The Work under the Contract shall be planned, scheduled, executed, and reported by the Contractor in accordance with the Contract Documents for the University's review and approval using the Critical Path Method (CPM) Schedule unless otherwise agreed to in writing by the Procurement Officer in consultation with the University's Project Manager. The University's review and approval of the Contractor's schedule does not constitute an agreement to specific dates, durations, or sequences for activities. The purpose of the project schedule shall be to:

(1) Assure adequate planning, scheduling, and reporting during execution of the Work;

(2) Assure coordination of the Work of the Contractor and the various subcontractors and suppliers;

(3) Assist the Contractor in monitoring the progress of the Work and evaluating proposed changes to the project and the project schedule; and,

(4) Assist the Contractor in the preparation and evaluation of the subcontractors' monthly progress payment requests.

B. When multiple subcontractors are involved, the Contractor will incorporate the schedules of all subcontractors in Contractor’s schedule to produce a unified project schedule. The Contractor shall make all submissions required in the Contract Documents.

C. Activities within the schedule should be linked between major area separations of the project so that the individual areas do not imply complete independence. The critical path should run through all major areas, since the entire project must be completed. The CPM schedule diagram shall include, but not necessarily be limited to, the following:

(1) The order and interdependencies of the Contractor's and subcontractors' activities and the major points of the interface or interrelation with the activities of others, including specific dates for completion;

(2) Conformance with and identification of the specific dates specified in the project documents;

(3) The description of work by activity;

(4) Delivery of Owner-furnished material and equipment, if any;

(5) Shop fabrication and delivery;

(6) Any Critical Paths; and

(7) Testing of equipment and materials.

Seasonal weather conditions, utility coordination, no-work periods (if any), expected job learning curves, and other such circumstances to activities shall be considered and included in the planning and scheduling of all work. Seasonal weather conditions shall be based upon the preceding ten (10) years records published for the locality by the National Ocean and Atmospheric Administration (NOAA) and entitled "Local Climatological Data."

D. The level of detail of the CPM schedule shall be such that activity durations over fifteen (15) working days shall be kept to a minimum except for non-construction activities such as shop drawings and sample submittals, fabrication and delivery of materials and equipment, concrete curing, and General Conditions activities.

E. If the Contractor's schedule shows the University or a separate contractor is to complete an activity by a specific date, or within a certain duration, the University or separate contractor under contract with the University may not be bound to the specific date or duration unless the University's Project Manager specifically agrees in writing to the same.

F. It is expressly understood and agreed by the Contractor that the project schedule is a working document to be revised from time to time as progress proceeds; however, the Contractor is responsible for completing the Work within the time frame noted for the project. The Contractor agrees that updating the schedule is a key component and will make every reasonable effort to provide current information to the University. Throughout the progress of the Work, the Contractor shall prepare and maintain a two week manual bar chart field schedule reflecting the schedule of work activities accomplished for the previous week and the work scheduled for the forthcoming two weeks. This manual field schedule shall be updated weekly and review and the regularly scheduled progress meetings. The University’s Project Manager is to be in attendance at all scheduling meetings.

G. If the Contractor fails to prepare and submit to the University's Office of Facilities Management a schedule before the existence of a delay, then no claim for extra costs due to delay in the work shall be recognized or asserted.

H. Materials Purchased Under Allowances -- The Contractor with approval of the University will provide schedules for all materials to be purchased from specified allowances.

7.07 PROGRESS PHOTOGRAPHS

If the project value exceeds $500,000, the Contractor shall take photographs on or about the first of each month showing the status of the work and submit the photographs every month to the University's Office of Facilities Management. The University shall determine if the photographs shall be in print or digital format. Photographs shall be sufficient in number to properly record the work and shall be digitally date stamped. The Contractor shall also photograph all disputed items of the work. The University reserves the right to waive this requirement or to apply it to certain projects less than $500,000 as specified in the project documents.

7.08 SUSPENSION OF THE WORK

A. The Procurement Officer may order the Contractor in writing to suspend, delay, or interrupt all or any part of the work for a period of time as the Procurement Officer may determine to be appropriate

for the convenience of the University.

B. If the performance of all or any part of the Work is suspended, delayed, or interrupted for an unreasonable period of time due to a failure to act by the University, an adjustment may be made for any increase in the cost of performance of the Work, excluding profit, necessarily caused by an unreasonable suspension, delay, or interruption, and the Contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor, or for which an equitable adjustment is provided for or excluded under any other provision of the Contract.

C. A claim may not be made under this section for any costs incurred more than 20 days prior to the Contractor's written notification to the Procurement Officer of the unreasonable delay or interruption. A written notification is not required for a claim resulting from a suspension order. The amount of the claim shall be asserted in writing as soon as practicable after the end of a suspension, delay, or interruption, but not later than the date of final payment for the project.

7.09 CONTRACTOR'S RIGHT TO STOP WORK OR TERMINATE CONTRACT

If the work should be stopped under an order of any court or other public authority for a period of three (3) months, through no act or fault of the Contractor or anyone employed by Contractor, then the Contractor may, upon seven (7) days' written notice to the University's Office of Facilities Management, stop work or terminate the Contract and receive payment from the University for all complete work.

7.10 UNIVERSITY'S RIGHT TO TERMINATE FOR ITS CONVENIENCE

A. The performance of work under this Contract may be terminated by the University in accordance with this clause in whole or in part from time to time, whenever the Procurement Officer shall determine that such termination is in the best interest of the University or the State. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of work under the Contract is terminated and the date upon which such termination becomes effective.

B. After receipt of a Notice of Termination and except as otherwise directed by the Procurement Officer, the Contractor shall:

(1) Stop work under the Contract on the date and to the extent specified in the Notice of Termination;

(2) Place no further orders or enter into subcontracts for materials, services, or facilities except as may be necessary for completion of the portion of the work under the Contract that is not terminated;

(3) Terminate all orders and subcontracts to the extent that the orders and subcontracts relate to the performance of work terminated by the Notice of Termination;

(4) Assign to the University in the manner, at the times, and to the extent directed by the

Procurement Officer, all of the right, title, and interest of the Contractor under the orders and subcontracts that have been terminated;

(5) Settle all outstanding liabilities and all claims arising out of such terminations of orders and subcontracts, with the approval or ratification of the Procurement Officer to the extent the Procurement Officer may require, which approval or ratification shall be final for all the purpose of this clause;

(6) Transfer title and deliver to the University in the manner, at the times, and to the extent, if any directed by the Procurement Officer, the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in connection with the performance of, the work terminated by the Notice of Termination, and other property which, if the project had been completed, would have been required to be furnished to the University.

(7) Use Contractor's best efforts to sell any parts, supplies, or other material, in the manner, at the times, to the extent, and at the price or prices directed or authorized by the Procurement Officer, and apply the proceeds of the disposition to reduce any payments to be made by the University to the Contractor for the project;

(8) Determine if the Contractor would like to acquire any parts, supplies, or other material at a price agreed upon by the Procurement Officer and provide a credit to the University or otherwise reduce payments to be made to the Contractor; and

(9) Take any action as may be necessary or as the Procurement Officer may direct, for the protection and preservation of the property related to the Contract which is in the possession of the Contractor and in which the University has or may acquire an interest.

The Contractor may submit to the Procurement Officer a list, certified as to quantity and quality, of any or all items of termination inventory not previously disposed of, exclusive of items the disposition of which has been directed or authorized by the Procurement Officer and may request the University to remove such items or enter into a storage agreement covering the same; provided, that the list submitted shall be subject to verification by the Procurement Officer upon removal of the items or, if the items are stored, within 45 days from the date of submission of the list. Any necessary adjustment to correct the list as submitted shall be made prior to final settlement.

The Contractor shall also complete performance of such part of the work as shall not have been terminated by the Notice of Termination.

C. After receipt of a Notice of Termination, the Contractor shall submit to the Procurement Officer a termination claim. The Procurement Officer may determine the nature of the form and documentation necessary for the claim, as applicable, as well any necessary certification to be made by the Contractor. Such claim shall be submitted promptly but in no event later than one year from the effective date of termination, unless one or more extensions in writing are granted by the Procurement Officer, upon request of the Contractor made in writing within such one year period or authorized extension thereof. Upon failure of the Contractor to submit a termination claim within the time allowed, the Procurement Officer may determine on the basis of information available to the

Procurement Officer, the amount, if any, due to the Contractor by reason of the termination and shall thereupon pay to the Contractor the amount so determined.
D. The Contractor and the Procurement Officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work pursuant to this clause, which amount or amounts may include a reasonable allowance for profit on work done; provided that such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total Contract price as reduced by the amount of payments otherwise made and as further reduced by the Contract price of work not terminated. The Contract shall be amended accordingly and the Contractor shall be paid the agreed amount.

E. For any work that the Procurement Officer and the Contractor are unable to agree on the amount to be paid, the Procurement Officer shall pay as follows:

(1) With respect to all Contract work performed prior to the effective date of the Notice of Termination, the total (without duplication of any items) of:

(a) The cost of the Work, which includes the amounts paid or payable on account of supplies or materials delivered or furnished by subcontractors before the effective date of the Notice of Termination of work under the Contract;

(b) The cost of settling and paying claims arising out of the termination of work under subcontracts or orders; and

(c) A sum, as profit for work performed before the effective date of the Notice of Termination, determined by the Procurement Officer to be fair and reasonable provided, however, that if it appears that the Contractor would have sustained a loss on the entire project had it been completed, no profit shall be included or allowed under and an appropriate adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss.

(2) The reasonable cost of the preservation and protection of property incurred by the Contractor and any other reasonable cost incidental to termination of work under the Contract, including expense incidental to the determination of the amount due to the Contractor as the result of the termination of work under the Contract.

The total sum to be paid to the Contractor may not exceed the total contract price as reduced by the amount of payments otherwise made and as further reduced by the Contract price of work not terminated. Except for normal spoilage and except to the extent that the University shall have otherwise expressly assumed the risk of loss, the fair value, as determined by the Procurement Officer, of property which is destroyed, lost, stolen, or damaged so as to be undeliverable to the University, or to a buyer, shall be excluded from the amounts payable to the Contractor.

F. Costs, claimed, agreed to, or determined shall be in accordance with COMAR 21.09 as in effect on the date of the Contract.

G. The Contractor shall have the right of appeal, under the disputes clause, from any determination

made by the Procurement Officer, except that if the Contractor has failed to submit Contractor's claim within the required time period, and has failed to request extension of such time, Contractor shall have no such right of appeal. In any case where the Procurement Officer has made a determination of the amount due, the University shall pay to the Contractor the following: (i) if there is no right of appeal hereunder or if no timely appeal has been taken, the amount so determined by the Procurement Officer; or (ii) if an appeal has been taken, the amount finally determined on such appeal.

H. In arriving at the amount due the Contractor under this clause there shall be deducted (i) all unliquidated advances or other payments or account theretofore made to the Contractor, applicable to the terminated portion of the Contract; (ii) any claim which the University may have against the Contractor in connection with this Contract; and (iii) the agreed price for, or the proceeds of sale of any materials, supplies, or other things acquired by the Contractor or sold, pursuant to the provisions of this clause, and not otherwise recovered by or credited to the University.

I. If the termination of work is only partial in nature, the Contractor may file with the Procurement Officer a claim for or an equitable adjustment of the price or prices specified in the Contract relating to the continued portion of the work (the portion not terminated by the Notice of Termination), and such equitable adjustment as may be agreed upon shall be made in such price or prices. Any claim by the Contractor for an equitable adjustment under this clause shall be asserted within ninety (90) days from the effective date of the termination notice, unless an extension is granted in writing by the Procurement Officer.

J. The University, may from time to time, under such terms and conditions as the University may prescribe, make partial payments and payments on account against costs incurred by the Contractor whenever in the opinion of the Procurement Officer the aggregate of such payments shall be within the amount to which the Contractor is entitled. If the total of such payments is in excess of the amount finally agreed or determined to be due under this clause, such excess shall be payable by the Contractor to the University upon demand together with interest computed at the legal rate for the period from the date such excess payment is received by the Contractor to the date on which the excess is repaid to the University; provided, however, that no interest shall be charged with respect to any such excess payment attributable to a reduction in the Contractor's claim by reason of retention or other disposition of termination inventory until ten days after the date of the retention or disposition, or a later date as determined by the Procurement Officer by reason of circumstances.

K. Unless otherwise provided for in the Contract or by applicable statute, the Contractor shall, from the effective date of termination until the expiration of three (3) years after the final settlement under the Contract, preserve and make available to the University at all reasonable times at the office of the Contractor but without direct charge to the University, all of Contractor's books, records, documents, and other evidence bearing on the costs and expenses of the Contractor under the Contract and relating to the terminated work, or to the extent approved by the Procurement Officer, photographs, or other authentic reproductions.

7.11 TERMINATION FOR DEFAULT

A. If the Contractor refuses or fails to prosecute the work, or any separable part, with such diligence as shall insure the work's completion within the time specified for the project or any extension, or fails to

complete said work within this time, the University may terminate the Contractor's right to proceed with the work or the part of the work as to which there has been delay by providing written notice to the Contractor. In this event, the University may take over the work and prosecute the work to completion, by contract or otherwise, and may take possession of, and utilize in completing the work, the materials, appliances, and plant as may be on the site of the work and necessary for completion. Whether or not the Contractor's right to proceed with the work is terminated, the Contractor and Contractor's sureties shall be liable for any damage to the University resulting from the Contractor's refusal or failure to complete the work within the specified time.

B. If fixed and agreed liquidated damages are provided in the Contract and if the University terminates the Contractor's right to proceed, the resulting damage shall consist of such liquidated damages until a reasonable time as may be required for final completion of the work together with any increased costs occasioned for the University in completing the work. These liquidated damages shall apply until the work is completed or accepted.

C. The Contractor's right to proceed may not be terminated nor the Contractor charged with resulting damages if:

(1) The delay in the completion of the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God, acts of the public enemy, acts of the University or State in either their sovereign or contractual capacity, acts of another contractor in the performance of a contract with the University, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, or delays of subcontractor or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and the subcontractor or suppliers; and

(2) The Contractor, within 10 days from the beginning of any such delay, notifies the Procurement Officer in writing of the causes of delay, unless the Procurement Officer grants a further period of time before the date of final payment under the Contract. The Procurement Officer shall ascertain the facts and the extent of the delay and extend the time for completing the work when, in the Procurement Officer's judgment, the findings of fact justify such an extension, and the Procurement Officer's findings of fact shall be final and conclusive on the parties, subject only to appeal as provided under the disputes clause.

D. If, after notice of termination of the Contractor's right to proceed under the provisions of this clause, it is determined for any reason that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties shall be the same as if the notice of termination had been issued for the University's convenience.

7.12 PARTIAL ACCEPTANCE

A. If during the construction of work the University desires to occupy any portion of the project, the University shall have the right to occupy and use those portions of the project which in the opinion of the procurement officer can be used for their intended purposes. University occupancy may only occur if the conditions of occupancy and use are established, and the responsibilities of the Contractor and the University for maintenance, heat, light, utilities, and insurance are mutually agreed to by the Contractor and the University.

B. Partial occupancy shall in no way relieve the Contractor of responsibilities under the Contract.

7.13 FAILURE TO COMPLETE ON TIME/LIQUIDATED DAMAGES

A. For each day that any work shall remain uncompleted beyond the time specified for the project, the Contractor shall be liable for liquidated damages in the amount of $1,000 per day provided, however, that due account shall be taken of any adjustment of specified completion time for completion of work as granted by approved change orders.

B. The University may collect liquidated damages through deduction or through offset from any amount due or to be become due to the Contractor. If the amount of damages is greater than the amount due to the Contractor, the Contractor shall pay the University for the difference.

7.14 SUBSTANTIAL COMPLETION AND FINAL INSPECTION

A. The University's Project Manager shall establish the date of Substantial Completion. When the Contractor reasonably believes the Work satisfies the Substantial Completion requirements, the Contractor shall notify the University's Project Manager and the Architect/Engineer that the work will be ready for the final inspection and test on a definite date. Reasonable notice shall be provided prior to the date to permit the Architect/Engineer and the University to schedule the final inspection. The Contractor shall not request a Substantial Completion inspection until the Work is in fact substantially complete.

B. On the scheduled Substantial Completion Inspection date, the Contractor shall deliver to the University's Project Manager a complete, comprehensive set of field mark-up drawings accurately documenting the As-Built Project and all of the Operation and Maintenance (O&M) Manuals required under the Contract. All required training and demonstration of equipment as required by the Contract Documents shall have also been completed.

C. The date of Substantial Completion that is established by the University's Project Manager shall be used as the time at which the warranties begin if the University determines, on the basis of the Substantial Completion Inspection, the following minimum requirements have been met and are in accordance with the Contract Documents:

(1) all electrical, mechanical, and life safety systems have been completed and successfully tested and successfully inspected for conformity to all requirements of the Contract Documents and all applicable codes and standards;

(2) complete, comprehensive field mark-up drawings of the As-built Project, and all of the O&M Manuals required under the Contract, have been delivered to the University's Project Manager;

(3) all other requirements for Substantial Completion, including the completion of required training and demonstration of equipment, have been met; and,

(4) the Project is able to be occupied and usable for its intended purpose.

D. The Work shall not be deemed substantially complete if, in the absolute discretion of the University's Project Manager, completion of unfinished works, whether called punch list work or otherwise, would cause inconvenience to or interfere with the use of the Premises by University personnel or others using the Premises.

E. If the University's Project Manager determines that Substantial Completion has been achieved, the University's Project Manager shall fix the time within which the Contractor shall complete any remaining items of work which may be indicated on a list (the 'punch list') prepared by the Architect/Engineer and the University. All punch list work shall be completed within thirty (30) days after the date of Substantial Completion determined by the University, unless the University establishes a different period for completion of the punch list work. If the Contractor fails to complete the remaining items in the time stipulated, the University shall have the undisputed right to complete the Work at the Contractor's expense by deducting any cost incurred from any monies retained under the Contract. The Contractor may be required to complete multiple punch lists, which may be prepared by the University or by the Architect/Engineer, until the Contract is performed in its entirety. Failure to complete punch list work in a timely manner shall constitute grounds for termination of the Contract for default.

F. Prior to the determination of Substantial Completion by the University, the Architect/Engineer or the University may prepare lists of work requiring completion as a prerequisite to the determination of Substantial Completion. These 'work lists' shall not constitute punch lists and shall not be construed as indicating that the Work has been completed to the extent that it is substantially complete.

G. Final payment shall not be made until all Contract work is complete to the satisfaction of the University.

H. Acceptance of the Work as substantially complete shall not excuse or waive any failure of the Contractor to complete the Contract as required by the Contract Documents.

7.15 CLEANING-UP

The Contractor shall at all times keep the project area, including storage areas used by Contractor, free from accumulation of waste materials or rubbish and prior to completion of work, shall remove from the premises any rubbish and all tools, scaffolding, equipment, and materials, not the property of the University. Upon completion of the project, the Contractor shall leave the work and premises in a clean, neat, and workmanlike condition satisfactory to the University's Office of Facilities Management.

7.16 GUARANTEES

The Contractor guarantees and warranties the following:

A. That the work contains no faulty or imperfect material or equipment or any imperfect, careless, or unskilled workmanship;

B. That all mechanical and electrical equipment, machines, devices, etc., shall be adequate for the use

to which they are intended, and shall operate, with ordinary care and attention, in a satisfactory and efficient manner;

C. That Contractor will re-execute, correct, repair, or remove and replace with proper work, without cost to the University, any work found not to be as guaranteed, and shall make good all damage caused to other work or materials in the process of complying; and

D. That the entire work shall be water-tight and leak-proof in every particular.

These guarantees and warranties shall be in place for a two (2) year period commencing on the date of substantial completion as established by the University, unless another period is specified in the project documents, which shall not be less than two (2) years. These guarantees are in addition to any implicit or explicit guaranty provided by law, if any.

7.17 NOTICE TO UNIVERSITY OF LABOR DISPUTES

A. Whenever the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of a project, the Contractor shall immediately provide notice to the Procurement Officer, to include all relevant information.

B. The Contractor agrees to insert the substance of this clause in any subcontract as to which a labor dispute may delay the timely performance of the Work; except that each subcontract shall provide that in the event its timely performance is delayed or threatened by delay by any actual or potential labor dispute, the subcontractor shall immediately notify the next higher tier subcontractor, or the prime Contractor, as the case may be, of all relevant information with respect to such dispute.

SECTION 8: PAYMENTS

8.01 SCOPE OF PAYMENT

For projects $200,000 or less, the University's Project Manager will direct the Contractor on the application for payment process. For projects greater than $200,000 the following applies if the project documents do not provide an alternative payment process:

A. Payments are made on the valuation of work accomplishment and on account of materials delivered on the site for incorporation in the work, which are suitably stored and protected. Prior to application for first payment, the Contractor shall submit to the University a schedule of values of the various parts of the work, including quantities, aggregating the total sum of the Contract. This schedule shall be divided in such a manner to facilitate payments to subcontractors. The form of this submission shall be as the Contractor and the University have agreed upon and shall be supported by such evidence as to its correctness as the University may direct. Unless at a later date found to be in error, this schedule shall be used as a basis for certificates of payments.

B. If materials are stored at an off-site location agreed upon by the University, the Contractor is required to correlate the documentation for payment of stored materials requested in the application for payment against the agreed upon breakdown of the SOV and provide the necessary certificate of insurance for offsite storage with the University as the certificate holder. The Contractor shall also provide bills of sale or other documentation satisfactory to the University's Office of Facilities to

establish the University's title to the materials or equipment or otherwise protect the University's interest, including any applicable aspects regarding transportation to site.

C. Application for payment shall be submitted on or about the 25th day of each month.

D. In applying for payments the Contractor shall submit a statement, based upon the schedule of values, itemized in such form and supported by such evidence as the University may require, showing the Contractor's right to the payment claimed. Payment will be for work in place by the 25th of the billing month; no projection to the month's end is to be included. Each invoice shall prominently display the Contractor's Federal Employers Tax Identification Number.

E. To the extent the University requires for a particular project, in applying for all payments, excluding the first payment and final payment, the Contractor shall submit a certificate that the Contractor has paid:

(1) All labor to date;

(2) All vendors and material suppliers in full for all items received; and

(3) All subcontractors in full, less the retained amount.

In applying for the final payment, the University may also require the Contractor to submit the following:

(1) Any evidence that the University may demand as will establish the University's title to materials and give reasonable assurance that claims against materials and claims for labor and other items by others do not exist;

(2) An electric certificate from an independent (non-governmental) electrical inspection agency approved by the State of Maryland Fire Marshal. The Contractor must make application for the inspection, coordinate same, and pay the required inspection fees. The independent electrical inspection agencies are not considered local authorities;

(3) All other guarantees as required by the project; and

(4) All equipment manuals and parts lists.

8.02 FORCE ACCOUNT WORK

A. When the Contractor is required to perform or have performed work as a result of additions or changes to the project for which there are no applicable unit prices in the Contract, the University's Office of Facilities Management and the Contractor shall make every effort to come to an agreed upon price for the performance of such work. If an agreement cannot be reached, the University's Office of Facilities Management may require the Contractor to do or have done such work on a force account basis to be compensated in accordance with the following:

(1) Labor -- For all labor and for foremen in direct charge of the specific operations, the Contractor shall receive the actual wages for each and every hour that said labor and foremen are actually engaged in such work. The Contractor shall receive the actual costs paid to, or in behalf of, workmen by reason of subsistence and travel allowances, health, welfare benefits, pension fund benefits, or other benefits, when such amounts are required by collective bargaining agreement or other employment Contract generally applicable to the classes of labor employed on the work.

(2) Materials -- For materials accepted by the Architect/Engineer and used, the Contractor shall receive the actual cost of such materials delivered on the work, including transportation charges paid by Contractor.

(3) Equipment -- For any machinery or special equipment rented, the Contractor shall receive the rates agreed upon in writing before such work is begun, or the Contractor shall receive those rates which may be specified elsewhere in the Contract. Equipment with a new cost of $500 or less will be considered small tools and are excluded from this provision, whether rented or owned.

(4) Materials and Supplies Not Incorporated in the Work -- For materials and supplies expended in the performance of the work, excluding those required for rented equipment, and approved by the Architect/Engineer, the Contractor shall receive the actual cost of such materials and supplies used.

(5) Bond, Insurance, and Tax -- For bond premiums, property damage, liability, and workmen's compensation insurance premiums, unemployment insurance contributions, and social security taxes on the force of account work, the Contractor and University shall determine an equitable percent to be applied.

(6) Subcontractors -- The Contractors shall receive the actual cost of work performed by a subcontractor. Subcontractor’s cost is to be determined in the same manner as Contractor’s cots. An allowance will be made to the Contractor for subcontractor's overhead and profit.

(7) Superintendence -- No additional allowance shall be made for general superintendence, the use of small tools, or other costs for which no specific allowance is provided.

(8) Subcontractor's Overhead and Profit -- The allowance to the subcontractor for subcontractor’s overhead and profit will be at the following scale:

Value of Work	Combined Overhead and Profit
$ 0 - $ 1,000	25%
$ 1,001 - $ 5,000	20%
$ 5,001 - $10,000	17%
$10,001 - $25,000	15%
over - $25,000	negotiated, but not more than 15%

B. Compensation -- The compensation shall be received by the Contractor as payment in full for the work done on a force account basis. At the end of each day, Contractor's representative and the Architect/Engineer shall compare records of the cost of work as ordered on a force account basis.

C. Statements -- No payment will be made for work performed on a force account basis until the Contractor furnishes the University duplicate itemized statements of the cost of such force account work detailed as to the following:

(1) Name, classification, date, daily hours, total hours, rate, and extension for laborers and foremen;

(2) Designation dates, daily hours, total hours, rental rate, and extension for each unit of machinery and equipment rented;

(3) Quantities and prices of materials;

(4) Changes for transportation of materials paid by the Contractor; and

(5) Cost of property damage, liability, and workmen's compensation insurance premiums, unemployment insurance contributions, and social security tax.

Statements for payments for materials shall be accompanied by original receipted invoices for materials used and transportation charges. If, however, the materials used in the force account work are not specifically purchases for such work but are taken from the Contractor's stock, then in lieu of the original invoices the statements shall contain or be accompanied by an affidavit of the Contractor which shall certify that such materials were taken from Contractor’s stock, that the quantity claimed was actually used, and that the price and transportation of the materials as are claimed represent actual cost. These requirements shall apply to any applicable cost of work for a subcontractor.

8.03 CASH ALLOWANCES

Whenever an allowance is mentioned in the specifications, then the Contractor shall include in Contractor’s price proposal the entire amount of specified allowances. The expenditure of these allowances is at the University's direction. However, the allowance expenditure is limited to items properly inferable from the title of the allowance. Unexpended balances are to revert to the University. The cost of installation of materials purchased are not included in the allowance but shall be included in the Contractor’s price proposal. The Contractor shall have installed, as applicable through subcontractors, all material purchased under allowances and shall include in the project sum a sufficient amount, in addition to the allowance, to cover the installation, other costs, and profit.

8.04 CERTIFICATES OF PAYMENT

A. If the Contractor has made application for payment, the University shall issue to the Contractor a certificate for such amount as the University determines to be properly due. The certificate may not be issued later than the date when such payment falls due. At the University’s discretion, and if notice is provided to the Contractor in writing, in approving partial payments, there may be an amount retained until completion and acceptance of all work covered by the Contract.

B. As applicable, the University may provide the Contractor with the payment form to be used by the Contractor.

C. No certificate issued nor payment made to the Contractor nor partial or entire use or occupancy of the work by the University shall be an acceptance of any work or materials not in accordance with the Contract.

D. If retainage is held for a project, retainage may not exceed 5% of the contract amount.

(1) A contractor may not retain from a payment due a subcontractor a percentage of the payment greater than the percent for retainage retained by the University.

(2) A subcontractor may not retain from a payment due a lower-tier subcontractor a percentage of the payment greater than the percent for retainage retained by the University.

(3) A contractor and a subcontractor are not, however, prohibited from withholding an amount in addition to retainage if the contractor or subcontractor determines that a subcontractor's performance provides reasonable grounds for withholding the additional amount.

E. In addition to retainage, the Procurement Officer may withhold an amount that the Procurement Officer reasonably believes is necessary to protect the University's interest.

F. A Contractor may elect to have retainage placed in an escrow account. In this instance, an escrow agreement would be signed by the Contractor, the escrow agent and, if applicable, the surety, and a fully executed copy of the agreement provided to the University. The escrow agent shall be selected from among the banks approved by the State Treasurer's office. The Contractor is solely liable to the escrow agent for the payment of fees and charges associated with the escrow account. Retained funds may only be released from the escrow account as directed by the University. At the time of final payment, the University shall direct the escrow agent to settle the escrow account by paying funds as directed. Until payment is made, escrow accounts are State funds and are not subject to any liens.

8.05 DEDUCTIONS FOR UNCORRECTED WORK

If the University deems it inexpedient to correct work injured or not completed in accordance with the Contract, an equitable deduction from the Contract price may be made.

8.06 PAYMENTS WITHHELD

A. The University may withhold or, on account of subsequently discovered evidence, nullify the whole or part of any payment certificate to such extent as may be necessary to protect the University from loss on account of:

(1) Defective work not remedied;

(2) Claims filed or reasonable evidence indicating probable filling of claims;

(3) Failure of the Contractor to make payments properly to subcontractor for material or labor;

(4) A reasonable doubt that the Contract can be completed for the balance then unpaid;

(5) Damage to another contractor;

(6) Liquidated Damages or other damages or compensation due the University for claims of the University against the Contractor;

(7) Any claim of the University or State against the Contractor on a debt or obligation owed the University or the State or claim by the University or the State to be owed by the Contractor to the University or State arising from any other cause of contract;

(8) Retainage;

(9) Failure to maintain as-built drawings;

(10) Failure to update schedules properly; or

(11) The cost of completing unfinished warranty work.

B. Payment shall be made for the withheld amount when the applicable situation has been corrected or resolved.

8.07 CORRECTION OF WORK BEFORE FINAL PAYMENT

A. The Contractor shall promptly remove from the premises all materials condemned by the Architect/Engineer or the University as failing to conform to the Contract, whether incorporated in the work or not. The Contractor shall promptly replace and re-execute Contractor's own work in accordance with the Contract and without expense to the University and shall bear the expense of making good all work of other Contractors destroyed or damaged by such removal or replacement.

B. If the Contractor does not have such condemned work and materials removed within a reasonable time, fixed by written notice, the University may remove them and may store the materials at the expense of the Contractor. If the Contractor does not pay the expense of such removal within ten (10) days time, the University may sell such materials and shall account for the net proceeds thereof, after deducting all the costs and expenses that should have been borne by the Contractor.

8.08 ACCEPTANCE AND FINAL PAYMENT

A. Upon completion of the Work, the Contractor shall prepare final payment forms and submit the forms to the University. The University shall promptly proceed to make any necessary final surveys and complete any necessary activities, including computation of quantities, to determine the Contractor's right to final payment. The University's Project Manager will then reply in writing to the Contractor's request for final payment informing the Contractor of all deductions, damages, costs, back charges, and other charges assessed against the Contractor by the University and the associated reasons.

B. Prior to or in the absence of a request from Contractor for final payment, the Procurement Officer may determine the amount of the final payment to the Contractor.

C. If the Contractor disputes the amount determined by the Procurement Officer to be due the Contractor, then the Contractor shall initiate a claim under the Disputes procedures.

D. Acceptance by the Contractor of any payment identified by the Procurement Officer as being final payment shall operate as an accord and satisfaction and a general release of all claims of the Contractor against the University arising out of or connected with the project, except as may be expressly agreed otherwise in writing between the Contractor and the Procurement Officer.

E. After final payment is made by the University, the Contractor may not assert a claim for the first time.

8.09 INTEREST

Contractor and the University agree that neither party is entitled to any interest on any payment due from the other.

8.10 AUDITS BY THE UNIVERSITY

A. The Contractor agrees that the University or any part of the University's duly authorized representatives shall, until expiration of three (3) years after final payment under this Contract or after any applicable statute of limitations, whichever is longer, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Contractor involving transactions under this Contract.

B. The Contractor further agrees to include a provision in all of Contractor's subcontracts to the effect that the subcontractor agrees that the University or any of the University's duly authorized representatives shall, until the expiration of three (3) years after final payment under the subcontract or after any applicable statute of limitations, whichever is longer, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, involving transactions related to the subcontract.

C. The Contractor shall retain and maintain all records and documents relating to this Contract for three (3) years or any applicable statute of limitations and shall make them available for inspection and audit by authorized representatives of the State of Maryland, including the University or designee at all reasonable times.

8.11 MULTI-YEAR CONTRACTS

If the General Assembly fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of the Contract succeeding the first fiscal period, the Contract or an applicable project shall be canceled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either the University's rights or the Contractor's rights under any termination clause in the

Contract. The effect of termination of the Contract or project will be to discharge both the Contractor and the University from future performance of the Contract or project, but not from their rights and obligations existing at the time of termination. The Contractor shall be reimbursed for the reasonable value of any non-recurring costs incurred for the project. The University shall notify the Contractor as soon as the University has knowledge that funds may not be available for the continuation of the Contract or project for each succeeding fiscal period beyond the first.

8.12 PAYMENT OF STATE OBLIGATIONS

A. Payments to the Contractor pursuant to the Contract shall be made no later than thirty (30) days after the University's receipt of a proper invoice from the Contractor. Charges for late payment of invoices, other than as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, or by the Public Service Commission of Maryland with respect to regulated public utilities as applicable, are prohibited.

B. Electronic funds transfer will be used by the State to pay Contractor for projects performed under the Contract and any other University payments due Contractor unless the State Comptroller's Office grants Contractor an exemption.

SECTION 9: EMPLOYEES, SUBCONTRACTORS, AND WORK CONDITIONS

9.01 EMPLOYEES AND WORKMANSHIP

A. Qualification of Employees -- Only personnel thoroughly trained and skilled in the task assigned may be employed on any portion of the work. Any employee found by the Contractor, the Architect/Engineer, or the University's Office of Facilities Management to be unskilled or untrained for the assigned task shall be removed from the work.

B. Licensed Employees – Personnel shall be licensed as required by municipal, county, State, or Federal law.

C. Quantity of Labor -- The Contractor shall employ sufficient personnel for the project at all times to complete the work within the time stated in the Contract.

D. Work Areas -- The Contractor shall confine the operations of Contractor's employees to the limited area directed by the University's Office of Facilities Management, or as provided by law, ordinance, or permits. Generally, the work area will be the same as the "Limits of Contract" line indicated in the 100% project documents.

E. Methods and Quality --

(1) All workmanship shall be of good quality. Whenever the method of the work or manner of procedure is not specifically stated in the Contract documents, then it is intended that the best standard practice shall be followed. Recommendations of the manufacturers of approved materials shall be considered as a part of the specifications and all materials shall be applied, installed, connected, erected, used, cleaned, and conditioned as recommended. This inclusion of the manufacturers recommendations does not remove any requirement in the specifications to add to the manufacturer's recommendations, when applicable.

(2) All materials shall be accurately assembled, set, etc., and when so required in good construction, shall be true to line, even, square, plumb, level, and regularly spaced, coursed, etc. Under no circumstances, either in new or old work, shall any material be applied over another which has not been thoroughly cleaned, sanded, or otherwise treated so as not to impair the finish, adhesion, or efficiency of the next applied item.

(3) All methods and procedures and results are subject to the University's and Architect/Engineer's approval as to finished result to be obtained. However, the requirement for approval is not to be interpreted as placing upon the University and the Architect/Engineer any responsibility for the "Work" management, which is solely the responsibility of the Contractor.

F. Scheduling -- The Contractor shall schedule the work to ensure efficient and uninterrupted progress and to hold to an absolute minimum the cutting and patching of new work. The Contractor shall schedule the work performed by each group or trade so that each installation or portion of the work shall member with and join with every other new or old work required for a complete installation, all according to accepted good construction practice.

G. Project Manager and Superintendent – As applicable, the Project Manager and Field Superintendent are to be those named in the Contractor's Technical Proposal submitted in response to the University's Solicitation and as approved by the University's Department of Procurement & Strategic Sourcing. Persons who have previously proved unsatisfactory on work executed for the University or the State of Maryland or who are without proper qualifications will not be approved.

Unless specified otherwise in the University's Solicitation or in the project's specifications, the Project Manager may work off-site.

The Contractor shall keep on site at all times when any of the Work is being performed, a competent Superintendent (fluent in English) and any necessary assistants. A single Superintendent will be permitted to superintend two or more jobs located close to each other only when approved by the University's Office of Facilities Management in writing.

The Project Manager and the Superintendent shall represent the Contractor. All directions given to the Project Manager or the Superintendent shall be as binding as if given to the Contractor. If the Project Manager or the Superintendent is removed from the work, a new Project Manager or new Superintendent shall be obtained and approved by the University at no additional cost to the University.

H. Discipline -- The Contractor shall at all times enforce strict discipline and good order among Contractor's employees and shall not employ or permit to remain on the work any unfit person. The Contractor shall enforce all instructions relative to use of water, heat, power, no smoking, and control and use of fires as required by law and by the University. Employees may not be allowed to loiter on the premises before or after working hours.

I. Employee Safety -- The Contractor shall designate a responsible member of Contractor's

organization, on the work, whose duty it shall be, in addition to the member's other duties, to prevent accidents and to enforce the standards required by the Contract. The name and position of the person designated as responsible shall be reported to the University's Office of Facilities Management, with a copy to the Architect/Engineer, by the Contractor at the commencement of the work.

J. Supervisory Personnel -- All supervisory personnel of the Contractor must be direct employees of the Contractor, unless otherwise approved in writing, in advance, by the University.

9.02 NON-DISCRIMINATION POLICIES

A. Contractors shall comply with all pertinent State and Federal laws and regulations prohibiting discrimination against any employee or applicant for employee, including the provisions of Title 19 of the State Finance and Procurement Article. Contractors shall also require all subcontractors to comply with these mandates.

B. If the Contractor fails to comply with non-discrimination employee laws or regulations, the University may declare the Contract void. In that event, the Contractor is entitled to the reasonable value of work that has been performed and materials that have been provided.

C. As provided in Title 19 of the State and Finance Procurement Article, as a condition of entering into the Contract, upon the request of the Commission on Civil Rights, and only after the filing of a complaint against the Contractor under Title 19 of the State Finance and Procurement Article, as amended from time to time, the Contractor agrees to: provide to the State within 60 days after the request a truthful and complete list of the names of all subcontractors, vendors, and suppliers that the Contractor has used in the past 4 years on any of its contracts that were undertaken within the State of Maryland, including the total dollar amount paid by the Contractor on each subcontract or supply contract. The Contractor further agrees to cooperate in any investigation conducted by the State pursuant to the State's Commercial Nondiscrimination Policy as set forth under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, to provide any documents relevant to any investigation that is requested by the State. The Contractor understands and agrees that violation of this clause shall be considered a material breach of the Contract and may result in contract termination, disqualification by the State from participating in State contracts, and other sanctions.

9.03 SUBCONTRACTS

A. The Contractor shall, as soon as practicable and before the issuance of a notice to proceed, notify the Architect/Engineer and the University's Office of Facilities Management in writing of the names of subcontractors proposed for the principal parts of the work and for such others as the Architect/Engineer may direct and shall not employ any that the Architect/Engineer or the University's Office of Facilities Management may object to as incompetent, unfit, or irresponsible.

B. The Contractor agrees that Contractor is as fully responsible to the University for the acts and omissions of subcontractors and of persons directly employed by subcontractors as Contractor is for the acts and omissions of persons directly employed by the Contractor.

C. Nothing contained in the contract documents shall create any contractual relation between any

subcontractor and the University and nothing in the contract documents is intended to make the subcontractor a beneficiary of the Contract between the University and the Contractor.

9.04 RELATION OF CONTRACTOR AND SUBCONTRACTOR

A. The Contractor agrees to bind every subcontractor and ensure that every subcontractor agrees to be bound by the terms of the Contract and Contract Documents and each of these as far as applicable to the subcontractor's work, unless specifically noted to the contrary in a subcontract approved in writing as adequate by the University's Office of Facilities Management.

B. The Contractor agrees to include the following provisions in all subcontracts and supply contracts, applicable to the work:

(1) Subcontractor agrees to be bound to the Contractor by the terms of the Contract and the Contract Documents and each of these, and to assume toward the Contractor all obligations and responsibilities that the Contractor, by those documents, assumes toward the University.

(2) The subcontractor agrees to submit to the Contractor applications for payment in such reasonable time as to enable the Contractor to apply for payment.

(3) The subcontractor agrees to make all claims for extras, for extensions of time, and for damages for delays or otherwise, to the Contractor in the manner provided for like claims by the Contractor upon the University except that the time for making claims for extra cost is five (5) days.

(4) The subcontractor agrees, upon completion of subcontractors work to promptly pay all labor, material suppliers, vendors, subcontractors, and others, and to permit simultaneous final payment by the Contractor and execution of the "Waiver of Liens" by the subcontractor.

C. The Contractor agrees to be bound to the subcontractor by all the obligations that the University assumes to the Contractor under the Contract, the Contract Documents and each of these, and all the provisions affording remedies and redress to the Contractor from the University. The Contractor also agrees:

(1) To pay the subcontractor, upon the presentation of certificates, if issued under the schedule of values, the amount allowed to the Contractor on account of the subcontractor's work to the extent of the subcontractor's interest.

(2) To pay the subcontractor, upon the presentation of certificates, so that at all times the subcontractors total payments shall be as large in proportion to the value of the work done by the subcontractor as the total amount certified to the Contractor is to the value of the work done by the subcontractor.

(3) To pay the subcontractor to such extent as may be provided by the Contract documents or the subcontract, if either of these provides for earlier or larger payments than the above.

(4) To pay the subcontractor on demand for subcontractors work or materials as far as executed and fixed in place, less the retained percentage, at the time to certificate should be issued, even though the Architect/Engineer fails to issue it for any cause not the fault of subcontractor.

(5) To pay the subcontractor a just share of any fire insurance money received by the Contractor.

(6) To make no demand for liquidated damages or penalty for delay in any sum in excess of such amount as may be specifically named in the subcontract.

(7) To give the subcontractor an opportunity to be present and to submit evidence in any matter involving subcontractors rights.

D. Contractor may not withhold from subcontractor or supplier, wholly or in part, any payment otherwise due and owing to the subcontractor or supplier for labor or material furnished for a project, on account of (1) any claim of the Contractor against the subcontractor or supplier, or (2) any debt owed or claimed to be owed by the subcontractor or supplier to the Contractor to the extent the claim or debt arose out of contracts, disputes, or other transactions between the Contractor and the subcontractor or supplier which did not arise out of the project.

E. When the University withholds money from the Contractor for delays or other causes, the Contractor may withhold payment from a subcontractor or supplier, on account of the amount withheld by the University from the Contractor, only to the extent that the subcontractor or supplier contributed to the delay or other cause for which the University withheld payment from the Contractor. For example, if the University withholds from the Contractor liquidated damages for delay; all other subcontractors or suppliers shall be paid promptly by the Contractor notwithstanding the University's withholding from the Contractor.

F. No claim for services rendered or materials furnished by the Contractor to the Subcontractor shall be valid unless written notice thereof is given by the Contractor to the subcontractor during the first ten (10) days of the calendar month following that in which the claims originated.

G. The Contractor and the Subcontractor agree that nothing in this section shall create any obligation on the part of the University to pay to or to see to the payment of any sums to any subcontractor.

9.05 MINORITY BUSINESS ENTERPRISE UTILIZATION

The University shall establish Minority Business Enterprise (MBE) requirements as applicable to each project. The Contractor shall comply with all established requirements for the project and promptly submit prescribed forms to the University.

9.06 PROJECT SAFETY AND HEALTH STANDARDS

It is a condition of the Contract and shall be made a condition of each subcontract entered into pursuant to the Contract, that the Contractor and any subcontractor may not require any laborer or mechanical employed in performance of the Contract to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to the individual's health or safety, as

determined under construction safety and health standards, laws, and regulations of the locality in which the work is done, the State, and the Federal government.

9.07 MANDATED CONTRACTOR REPORTING OF SUSPECTED CHILD ABUSE & NEGLECT

The University of Maryland, Baltimore County (UMBC) and the University System of Maryland (USM) are committed to protecting the safety and welfare of children who come into contact with the UMBC community. Maryland law contains mandatory reporting requirements for all individuals who suspect child abuse or neglect, as provided in Title 5, Subtitle 7 of the Family Law Article of the Annotated Code of Maryland.

Contractors performing work on campus shall comply with USM Board of Regents (BOR) VI-1.50 – *Policy on the Reporting of Suspected Child Abuse and Neglect.* Specifically, contractors performing work on campus must report suspected child abuse or neglect to the local department of social services or law enforcement agency and the UMBC President's Designee, if the suspected child abuse or neglect: (i) took place in UMBC facilities or on UMBC property; (ii) was committed by a current or former employee or volunteer of the USM; (iii) occurred in connection with a UMBC sponsored, recognized, or approved program, visit, activity, or camp, regardless of location; or (iv) took place while the victim was a registered student at UMBC.

UMBC reserves the right to terminate the Contract if Contractor fails to comply with reporting requirements, or if, in the judgment of UMBC, termination is necessary to protect the safety and welfare of children who come into contact with the UMBC community.

END OF UMBC MAINTENANCE PROJECT GENERAL CONDITIONS